

## **40.240 COLUMBIA RIVER GORGE NATIONAL SCENIC AREA DISTRICTS**

### **40.240.010 PURPOSE AND AUTHORITY**

The purpose of these regulations is to protect and provide for the enhancement of the scenic, cultural, recreational, and natural resources of the Columbia River Gorge, and to protect and support the economy of the Columbia River Gorge by allowing future economic development in a manner that enhances the scenic, cultural, recreational, and natural resources of the Gorge. These regulations are intended to be consistent with and implement the Management Plan for the Columbia River Gorge National Scenic Area adopted and amended by the Columbia River Gorge Commission. These regulations shall only apply to lands within the Clark County area within the National Scenic Area.

### **40.240.020 AREA AFFECTED**

- A. Chapter 40.240 shall:
  - 1. Apply to all lands in Clark County, Washington within the Columbia River Gorge National Scenic Area as designated by the Columbia River Gorge National Scenic Area Act as may be amended;
  - 2. Apply to all unincorporated lands within the Scenic Area; and
  - 3. Be applied by Clark County to the Scenic Area within incorporated lands where authorized by state or federal law. Administration and enforcement of these incorporated areas may be subject to inter-local agreement between Clark County and the City of Washougal.
- B. Those portions of Chapter 40.240 and any amendments thereto pertaining to the General Management Area become effective once the Columbia River Gorge Commission finds it consistent with the Management Plan for the CRGNSA. Those portions of Chapter 40.240 and any amendments thereto pertaining to the Special Management Area become effective when the Secretary of Agriculture concurs on the ordinances adopted by Clark County.

### **40.240.030 REVIEW AND APPROVAL REQUIRED**

No building, structure or land shall be used and no building or structure shall be hereafter erected, altered or enlarged, including those proposed by state or federal agencies, in the Clark County portion of the Columbia River Gorge National Scenic Area except for the uses listed in this chapter, when considered under the applicable procedural and substantive guidelines of this chapter.

### **40.240.040 COMPREHENSIVE PLAN AND ZONING DESIGNATIONS**

- A. All lands within the Clark County area lying within the Columbia River Gorge National Scenic Area shall carry a zoning map designation, and identical Comprehensive Plan map designation of one of the following categories, as delineated on the adopted Clark County Columbia River Gorge National Scenic Area Zoning and Comprehensive Plan maps:
  - 1. General Management Area (GMA):
    - a. Gorge Large-Scale Agriculture 80 (GLSA-80)
    - b. Gorge Large-Scale Agriculture 40 (GLSA-40)
    - c. Gorge Small-Scale Agriculture 20 (GSSA-20)
    - d. Gorge Small Woodland 20 (GSW-20)
    - e. Gorge Small Woodland 40 (GSW-40)
    - f. Gorge Open Space (GOS)
    - g. Gorge Residential 5 (GR-5)
    - h. Gorge Residential 10 (GR-10)
    - i. Gorge Public Recreation (GPR)
  - 2. Special Management Area (SMA):

- a. Gorge SMA Agriculture (GSAG)
  - b. Gorge SMA Federal Forest (GSFF)
  - c. Gorge SMA Non-Federal Forest (GSNFF)
  - d. Gorge SMA Open Space (GSOS)
- B. In addition, Columbia River Gorge National Scenic Area Management Plan maps for Landscape Settings and Recreation Intensity Classes shall be used for limited regulatory purposes where referred to in this chapter. All maps listed shall be made available at the offices of the Clark County Department of Community Development in Vancouver, Washington, and the Columbia River Gorge Commission in White Salmon, Washington.

#### **40.240.050 AMENDMENTS TO THIS SECTION**

Clark County may initiate and complete changes to this chapter or associated map designations as follows, to be reviewed under procedures specified under Chapter 40.500:

- A. Scrivener errors, spelling and numbering corrections may be undertaken administratively by county staff.
- B. Minor textual alterations may be undertaken by Clark County through a Type IV legislative action under Section 40.510.040 upon a finding that such changes are consistent with the CRGNSA General Management Plan. Such alterations shall require subsequent approval by the Columbia River Gorge Commission, and the U.S. Secretary of Agriculture for alterations in the SMA, before taking effect.
- C. Minor and major textual and map alterations may be undertaken by Clark County through a Type IV legislative action under Section 40.510.040 in response to changes in the CRGNSA General Management Plan and/or other actions by the Columbia River Gorge Commission authorizing such alterations.
- D. Individuals seeking major textual and map changes requiring a change to the General Management Plan are encouraged to contact the Columbia River Gorge Commission to complete such changes before seeking corresponding changes within this chapter. Any changes to the zoning maps designations shall require corresponding changes to the Comprehensive Plan map, and shall be considered major changes.

#### **40.240.060 DEFINITIONS**

As used in this chapter, unless otherwise noted, the following words and their derivations shall have the following meanings. The definitions do not apply to areas of Clark County outside of the Columbia River Gorge National Scenic Area.

Accepted agricultural practice	A mode of operation that is common to farms or ranches of similar nature, necessary for the operation of such farms or ranches to obtain a profit in money and customarily utilized in conjunction with agricultural use.
Accessory building	A building or structure whose use is incidental and subordinate to that of the main use of the property, and that is located on the same parcel as the main building or use.
Active wildlife site	A wildlife site that has been used within the past 5 years by a sensitive wildlife species.
Agency official	The federal, state, or local agency head or designee who has authority over a proposed project.
Agricultural structure	A structure located on a farm or ranch and used in the operation for the storage, repair, and maintenance of farm equipment and supplies or for the raising and/or storage of crops and livestock. These include, but are not limited to: barns, silos, workshops, equipment sheds, greenhouses, wind machines (orchards), processing facilities, storage bins and structures.
Agricultural use	The current employment of land for the primary purpose of obtaining a profit in money by raising, harvesting, and selling crops; or by the feeding, breeding, management, and sale of, or production of livestock, poultry, fur-bearing animals or honeybees; or for dairying and the sale of dairy products; or any other agricultural or horticultural use, including Christmas trees. Current employment of land for agricultural use includes:

	<ol style="list-style-type: none"> <li>1. The operation or use of farmland subject to any agriculture-related government program.</li> <li>2. Land lying fallow for 1 year as a normal and regular requirement of good agricultural husbandry.</li> <li>3. Land planted in orchards or other perennials prior to maturity.</li> <li>4. Land under buildings supporting accepted agricultural practices. Agricultural use does not include livestock feedlots.</li> </ol>
Anadromous fish	Species of fish that migrate upstream to freshwater after spending part of their life in the ocean saltwater.
Anaerobic	A condition in which molecular oxygen is absent (or effectively so) from the environment
Aquaculture	The cultivation, maintenance, and harvesting of aquatic species.
Aquatic area	The water area of a stream, pond, or lake measured at the ordinary high water mark.
Archaeological resources	See cultural resource.
Archival research	Research in primary documents that is likely to yield information regarding human occupation of the area in question, including but not limited to deed, census, cartographic, and judicial records.
Bed and breakfast inn	An establishment located in a structure designed as a single-family dwelling where more than two rooms but fewer than six rooms are rented on a daily basis. Bed and breakfast inns are clearly incidental to the use of a structure as a single-family dwelling and are owner occupied and operated. Bed and breakfast inns operate as transient accommodations, not as rooming or boarding houses.
Best management practices	<p>Conservation techniques and management measures that:</p> <ol style="list-style-type: none"> <li>1. Control soil loss and reduce water quality degradation caused by nutrients, animal waste, toxins, and sediment;</li> <li>2. Minimize adverse effects to groundwater and surface-water flow and circulation patterns; and</li> <li>3. Maintain the chemical, biological, and physical characteristics of wetlands, ponds, streams, and riparian areas.</li> </ol>
Biodiversity (SMA)	A diversity of biological organisms at the genetic, species, ecosystem, and landscape levels.
Boat landing	Cleared area or developed structure used to facilitate launching or retrieving watercraft.
Buffer zone	An area adjacent to a wetland, stream, pond, or other sensitive area that is established and managed to protect sensitive natural resources from human disturbance. In instances that involve a wetland, stream, or pond, the buffer zone includes all or a portion of the riparian area.
Building	Any structure used or intended for supporting or sheltering any use or occupancy.
Camping or recreational vehicle	A vacation trailer, camper, self-propelled vehicle, or structure equipped with wheels for highway use that is intended for recreational purposes, but not for residential purposes, and is equipped with plumbing, sink, or toilet. A camping or recreational vehicle shall be considered a dwelling unit and subject to review for consistency with this chapter if it is connected to a sewer system (including septic tank), water, and electrical lines or is occupied on the same parcel for more than 60 days in any consecutive 12-month period.
Campsite	Single camping unit, that usually consists of a cleared, level area for a tent, and may include a parking spur, fire ring, table, and other amenities.
Capability	The ability of land to produce forest or agricultural products due to characteristics of the land itself, such as soil, slope, exposure, or other natural factors.
Cascadian architecture (SMA)	Architectural style using native rockwork, large timber, and steeply pitched roofs in a rustic manner.
Catastrophic situations (SMA)	Forces such as fire, insect and disease infestations, and earth movements.
Childcare center	<p>A facility providing daycare to three or more children, but not including:</p> <ol style="list-style-type: none"> <li>1. The provision of care that is primarily educational, unless provided to a preschool child for more than 4 hours a day.</li> </ol>

	<p>2. The provision of care that is primarily supervised training in a specific subject, including but not limited to dancing, gymnastics, drama, music or religion.</p> <p>3. The provision of short-term care related to or associated with group athletic or social activities.</p> <p>4. The provision of daycare in the provider's home in the family living quarters for less than 13 children.</p>
Clear-cut	A created opening of one acre or more.
Columbia River Gorge National Scenic Area Graphic Signing System	Sign design standards developed for the Scenic Area for public signs in and adjacent to public road rights-of-way.
Commercial development / use	Any facility or use of land or water whose function is primarily retail buying or selling of goods or services or both. This does not include fruit or produce stands.
Commercial forest products	These include timber for lumber, pulp, and firewood for commercial purposes.
Commercial recreation	Any private (non-governmental) recreational activity or facility on privately owned land, excluding nonprofit facilities. This does not include operation of a public recreation facility by a private vendor.
Community facility	Basic utilities and services necessary to support public service needs, including but not limited to water and power utilities, sanitation facilities, public microwave stations and communication facilities, schools, roads and highways. This does not include sanitary landfills.
Consulting parties (cultural resources)	Organizations or individuals who submit substantive written comments to the Development Review Officer in a timely manner because they are concerned with the effects of a proposed use on cultural resources.
Contiguous land	Parcels or other lands that are under the same ownership and have a common boundary, regardless of whether or not portions of the parcels have separate tax lot numbers, lie in different counties, lie in different sections or government lots, lie in different land use or zoning designations, or are separated by public or private roads. Contiguous land does not include parcels that meet only at a single point.
Counties	The six counties within the Scenic Area: Hood River, Multnomah, and Wasco in Oregon, and Clark, Skamania, and Klickitat in Washington.
Created opening (SMA)	A created forest opening with less than eighty percent (80%) crown cover closure of trees averaging less than 20 feet tall.
Creation (wetlands)	A human activity that converts an upland into a wetland. This definition presumes that the area to be converted has not been a wetland in recent times (100 to 200 years).
Cultivation	Any activity that prepares land for raising crops by turning, breaking, or loosening the soil. Cultivation includes plowing, harrowing, leveling, and tilling.
Cultural resource	<p>Evidence of human occupation or activity that is important in the history, architecture, archaeology or culture of a community or region. Cultural resources include, but are not limited to, the following:</p> <ol style="list-style-type: none"> <li>1. Archaeological resources. Physical evidence or ruins of human occupation or activity that are located on or below the surface of the ground and are at least 50 years old. Archaeological resources include, but are not limited to, the remains of houses, villages, camp and fishing sites, and cave shelters; rock art such as petroglyphs, and pictographs; artifacts such as arrowheads, utensils, tools, fragments of tools and utensils, obsidian flakes or other material by-products from tool and utensil-making activities; and graves, human remains, and associated artifacts.</li> <li>2. Historic buildings and structures. Standing or above-ground buildings and structures that are at least 50 years old. Historic buildings and structures include, but are not limited to, log cabins, barns, canals, flumes, pipelines, highways, and tunnels.</li> <li>3. Traditional cultural properties. Locations, buildings, structures, and objects that are associated with cultural beliefs, customs, or practices of a living community that are rooted</li> </ol>

	in that community's history and are important in maintaining the continuing cultural identity of the community. Traditional cultural properties include, but are not limited to, a location associated with the traditional beliefs of a Native American group about its origins or its cultural history, a location where a community has traditionally carried out artistic or other cultural practices important in maintaining its historical identity; and a location where Native American religious practitioners have historically gone, and go today, to perform ceremonial activities. Objects may include petroglyphs, pictographs, rock cairns or other rock structures, trees, and rock outcrops.
Cumulative effects	The combined effects of two or more activities. The effects may be related to the number of individual activities, or to the number of repeated activities on the same piece of ground. Cumulative effects can result from individually minor but collectively significant actions taking place over a period of time.
Cut	An area where soil or earth is excavated or removed in conjunction with development activities.
Days	Calendar days, including weekends and holidays.
Days, working	Days, during which Clark County Department of Community Development offices are open to the public, excluding weekends and holidays.
Dedicated site	An area actively devoted to the current use and as delineated on the site plan.
Deer and elk winter range	Areas normally used, or capable of being used, by deer and elk from December through April.
Destruction of wetlands	Loss of the wetlands or any of its component parts, including the filling, draining, or other adverse effect to the sustainable functioning of the wetland.
Developed recreation	Recreational opportunities characterized by high-density use on specific sites and requiring facilities installation. Density of use, amount of site development, and type of recreation site can vary widely across the spectrum of recreation activities.
Development	Any land division or structure, including but not limited to, new construction of buildings and structures, and mining, dredging, filling, grading, paving, and excavation.
Diameter at breast height (dbh)	The diameter of a tree as measured at breast height.
Duplex	A building containing two dwelling units and designed for occupancy by two families.
Dwelling, single-family	A detached building containing one dwelling unit and designed for occupancy by one family only.
Dwelling unit	A single unit designed for occupancy by one family and having not more than one cooking area or kitchen.
Effect on treaty rights	To bring about a change in, to influence, to modify, or to have a consequence to Indian treaty or treaty-related rights in the Treaties of 1855 with the Nez Perce, Umatilla, Warm Springs and Yakima tribes executed between the individual Indian tribes and the Congress of the United States and as adjudicated by the Federal courts.
Endemic	Plant and animal species that are found only in the vicinity of the Columbia River Gorge area.
Enhancement (natural resources)	A human activity that increases one or more functions of an existing wetland, stream, lake, riparian area, or other sensitive area. Enhancement is generally limited to a wetland, stream, lake, riparian area, or other sensitive area that is degraded. Enhancing an area that is in good or excellent condition may reduce biological diversity and eliminate other natural functions and may not be desirable.
Emergency / Disaster	A sudden unexpected occurrence, either the result of human or natural forces, necessitating immediate action to prevent or mitigate significant loss or damaged to life, health, property, essential public services, or the environment.
Emergency / Disaster Response	Actions involving any development or vegetation removal that must be taken immediately in response to an emergency/disaster event. Emergency/disaster response actions that do not involve any structural development or ground-disturbance activities are not included in this definition.
Ethnography	The descriptive and analytic study of the culture of particular groups. An ethnographer seeks to understand a group through interviews with its members and often through living

	in and observing it.
Existing use or structure	A legally established use that existed before the effective date of the Scenic Area Act, the Management Plan, or a land use ordinance established pursuant to the Scenic Area Act. "Legally-established" means established in accordance with the law in effect at the time of establishment of the use.
Exploration, development (extraction and excavation), and production of mineral resources	Includes all or any part of the process of surface, underground, or submerged mining of mineral resources. Minerals include soil, coal, clay, stone, sand, gravel, metallic ore, oil and gases and any other material or substance excavated for commercial, industrial or construction use. Exploration of mineral resources means removal of minerals for informational and testing purposes, with no marketing of materials. Development (extraction and excavation) means removal, typically in larger volumes, of minerals for the purpose of marketing and/or production. Production of mineral resources means the use of portable crushing, onsite stockpiling, washing, milling, screening, or sorting equipment or other similar methods of initial treatment of a mineral resource to transport to another site for use or further processing. Secondary processing such as concrete or asphalt batch plants is considered industrial use and not mineral development or production.
Fill	The placement, deposition, or stockpiling of sand, sediment, or other earth materials to create new uplands or create an elevation above the existing surface.
Fire break	A break in ground cover fuels, adjacent to and surrounding buildings.
Forbs	Broad-leaved herbs, in contrast to ferns, fern allies, and grasses and grass-like plants.
Foreground (SMA)	One-half mile on either side of a traveled road or trail.
Forest products	Commodities produced from a forest, including, but not limited to, timber products, boughs, mushrooms, pine cones, and huckleberries.
Forest practices	Those activities related to the growing and harvesting of forest tree species, as defined by the Washington Forest Practices Act.
Forest use	The growing, propagation, and harvesting of forest tree species and other forest products.
Fully screened	A description of the relative visibility of a structure where that structure is not visible as viewed from a specified vantage point (generally a key viewing area, for the purpose of the Management Plan).
Grade (ground level)	The average elevation of the finished ground elevation as defined by the Uniform Building Code.
Grading	Any excavating or filling of earth materials or any combination thereof, including the land in its excavated or filled condition.
Height of building	The vertical distance from the grade to the highest point of the roof.
Herbaceous	A plant with no persistent woody stem above the ground, with characteristics of an herb.
Herbs	Non-woody (herbaceous) plants, including grasses and grass-like plants, forbs, ferns, fern allies, and non-woody vines. (Note: Seedlings of woody plants that are less than 3 feet tall shall be considered part of the herbaceous layer.)
Historic buildings and structures	See cultural resource.
Historic survey	Actions that document the form, style, integrity, and physical condition of historic buildings and structures. Historic surveys may include archival research, architectural drawings, and photographs.
Home Occupation	Small scale professional or vocational activities conducted on non-commercial properties in a manner which does not detract from residential or resource characteristics of the surrounding area. Under this chapter, home occupations shall be consistent in definition and usage with the Scenic Area Management Plan provisions for cottage industries and home occupations.
Horses, boarding of	The stabling, feeding, and grooming for a fee, or the renting of stalls for and the care of horses not belonging to the owner of the property, and related facilities, such as training arenas, corrals, and exercise tracks.
Hydric soil	A soil that is saturated, flooded, or ponded long enough during the growing season to develop anaerobic conditions in the upper part.
In-lieu sites	Sites acquired by the Army Corps of Engineers and transferred to the Bureau of Indian

	Affairs for treaty fishing, in lieu of those usual and accustomed fishing areas lost by inundation from reservoir construction. These sites were acquired under the provisions of Public Law 14 and Public Law 100-581, 401. Additional in-lieu sites will be provided for.
Indian tribal government	The governing bodies of the Nez Perce Tribe (Nez Perce Tribal Executive Committee), the Confederated Tribes of the Umatilla Indian Reservation (Board of Trustees), the Confederated Tribes of the Warm Springs Reservation of Oregon (Tribal Council), and the Confederated Tribes and Bands of the Yakima Indian Nation (Tribal Council).
Indian tribes	The Nez Perce Tribe, the Confederated Tribes and Bands of the Yakima Indian Nation, the Confederated Tribes of the Warm Springs Reservation of Oregon, and the Confederated Tribes of the Umatilla Indian Reservation.
Industrial uses	Any use of land or water primarily involved in: <ol style="list-style-type: none"> <li>1. Assembly or manufacture of goods or products;</li> <li>2. Processing or reprocessing of raw materials, processing of recyclable materials or agricultural products not produced within a constituent farm unit;</li> <li>3. Storage or warehousing, handling or distribution of manufactured goods or products, raw materials, agricultural products, forest products, or recyclable materials for purposes other than retail sale and service; or</li> <li>4. Production of electric power for commercial purposes.</li> </ol>
Interpretive displays	Signs and structures that provide for the convenience, education, and enjoyment of visitors, helping visitors understand and appreciate natural and cultural resources and their relationship to them.
Key components	The attributes that are essential to maintain the long-term use and productivity of a wildlife site. The key components vary by species and wildlife site. Examples include fledgling and perching trees, watering sites, and foraging habitat.
Key viewing areas	Those portions of important public roads, parks, or other vantage points within the Scenic Area from which the public views Scenic Area landscapes. These include: Historic Columbia River Highway Crown Point Highway 1-84, including rest stops Multnomah Falls Washington State Route 14 Beacon Rock Panorama Point Park Cape Horn Dog Mountain Trail Cook-Underwood Road Rowena Plateau and Nature Conservancy Viewpoint Portland Women's Forum State Park Bridal Veil State Park Larch Mountain Rooster Rock State Park Bonneville Darn Visitor Centers Columbia River Washington State Route 141 Washington State Route 142 Oregon Highway 35 Sandy River Pacific Crest Trail SMA only: Old Washington State Route 14 (County Road 1230) Wyeth Bench Road Larch Mountain Road Sherrard Point on Larch Mountain
Land division	The division or re-division of contiguous land(s) into tracts, parcels, sites or divisions,

	regardless of the proposed parcel or tract size or use. A land division includes, but is not limited to, short subdivisions, partitions, and subdivisions.
Landscape setting	The combination of land use, landform, and vegetation patterns that distinguish an area in appearance and character from other portions of the Scenic Area.
Livestock feedlot	Stockyards and commercial livestock finishing yards for cattle, sheep, swine, and fur bearers. Feedlots do not include winter pasture or winter hay-feeding grounds.
Lot line adjustment	Transfer of a portion of a parcel from one owner to the owner of an adjacent parcel resulting in no increase in the number of parcels.
Management plan	The document entitled Management Plan for the Columbia River Gorge National Scenic Area adopted October 14, 1991. The Management Plan becomes effective upon approval of land use ordinances by the Commission for the General Management Area and concurrence of land use ordinances by the Secretary of Agriculture for the Special Management Area.
Mitigation	The use of any or all of the following actions: 1. Avoiding the impact altogether by not taking a certain action or parts of an action. 2. Minimizing impacts by limiting the degree or magnitude of the action and its implementation. 3. Rectifying the impact by repairing, rehabilitating, or restoring the affected environment. 4. Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action.
Multifamily dwelling	A dwelling constructed or modified into two or more single-family units.
Native species	Species that naturally inhabit an area.
Natural resources	Naturally occurring features including land, water, air, plants, animals (including fish), plant and animal habitat, and scenery.
Natural resource specialist	A person with professional qualifications, including an academic degree or sufficient professional experience, in the subject matter the specialist is being asked to analyze or evaluate.
Natural resource-based recreation (SMA)	Recreation activities, uses, or facilities that essentially depend on the unique natural, scenic, or cultural resources found within the Scenic Area. Campgrounds, trails, boating and windsurfing facilities, swimming beaches, picnic sites, viewpoints, interpretive parks, and similar outdoor recreation facilities are considered resource-based; golf courses, tennis courts, and rental cabins are not.
Nonprofit organization	An organization whose nonprofit status has been approved by the U.S. Internal Revenue Service.
Old growth	Any stand of trees 10 acres or greater generally containing the following characteristics: 1. contain mature and over-mature trees in the overstory and are well into the mature growth state; 2. in coniferous forests, will usually contain a multilayered canopy and trees of several age classes; 3. in coniferous forests, standing dead trees and down material are present; and 4. evidence of man's activities may be present, but does not significantly alter the other characteristics and would be a subordinate factor in description of such a stand.
Open Spaces	Unimproved lands not designated as agricultural lands or forest lands by the Management Plan and designated as open space by the Management Plan. Open spaces include: 1. Scenic, cultural, and historic areas, 2. Fish and wildlife habitat; 3. Lands which support plant species that are endemic to the Scenic Area or which are listed as rare, threatened or endangered species pursuant to State or Federal Endangered Species Acts; 4. Ecologically and scientifically significant natural areas; 5. Outstanding scenic views and sites; 6. Water areas and wetlands; 7. Archaeological sites, Indian burial grounds and village sites, historic trails and roads



	<p>and other areas which are culturally or historically significant;</p> <p>8. Potential and existing recreation resources; and</p> <p>9. Federal and state wild, scenic, and recreation waterways.</p>
Ordinary high water mark	The mark on all streams, ponds, and lakes that will be found by examining the bed and banks and ascertaining where the presence and action of waters are so common and usual, and so long continued in all ordinary years, as to mark upon the soil a vegetative character distinct from that of the abutting upland. In any area where the ordinary high water mark cannot be found, the line of mean high water shall substitute.
Parcel	<p>1. Any parcel legally created by a short division, partition, or subdivision.</p> <p>2. Any unit of land legally created and separately described by deed or sales contract prior to November 17, 1986, created in compliance with applicable planning, zoning, and land division ordinances or regulations.</p> <p>3. A unit of land created and separately described by deed or sales contract after November 17, 1986 if the unit created was approved by the Gorge Commission or the Forest Service Scenic Area Office.</p> <p>4. A unit of land shall not be considered a separate parcel simply because the subject tract of land:</p> <ul style="list-style-type: none"> <li>a. Is a unit of land created solely to establish a separate tax account,</li> <li>b. Lies in different counties;</li> <li>c. Lies in different sections or government lots;</li> <li>d. Lies in different land use or zoning designations; or</li> <li>e. Is dissected by a public or private road.</li> </ul>
Partial retention	A visual quality objective that provides for management activities that may be evident but must remain visually subordinate to the characteristic landscape. Activities may repeat form, line, color, or texture common to the characteristic landscape, but changes in their qualities of size, amount, intensity, direction, pattern, etc., shall remain visually subordinate to the characteristic landscape.
Practicable	Able to be done, considering technology and cost.
Preexisting	Existing prior to the adoption of the Columbia River Gorge National Scenic Area Management Plan.
Primarily	A clear majority as measured by volume, weight, or value.
Project area	The geographic area or areas within which new development and uses may cause changes in the character or use of cultural resources, if any such resources exist.
Public use facility	Recreation development(s) that meet the definition of "recreation facility" in the Management Plan and are open for use by the general public. Private clubs and other facilities limited to members or otherwise restricted in availability shall not be considered public use facilities.
Rare plant species	Used in a generic sense to refer to various categories of sensitive plants cited in federal and state programs.
Recreation facility	A cluster or grouping of recreational developments or improvements located in relatively close proximity to one another, and that are not separated in distance by more than 1/4 mile of land that does not contain any such developments or improvements, except for roads and/or pathways.
Reconnaissance survey	Actions conducted to determine if archaeological resources are present in an area that would be affected by a proposed use. Reconnaissance surveys may include archival research, surface surveys, subsurface testing, and ethnographic research.
Recreation Opportunity Spectrum (ROS)	<p>A means of classifying areas in relation to the types of recreation opportunities and experiences they provide or are appropriate for. The spectrum ranges from primitive (wilderness areas) to urban (highly modified areas).</p> <p>1. Primitive: Remote, inaccessible areas with a high degree of solitude and with resources essentially unmodified.</p> <p>2. Semi-primitive: Areas accessible only by primitive transportation routes, with low to moderately infrequent human encounters and with only subtle modifications to the natural setting.</p>

	<p>3. Roaded Natural: Roaded areas with moderately frequent human encounters and with resource modifications evident.</p> <p>4. Rural: Roaded areas with moderate to highly frequent human encounters and with the natural setting dominated by cultural modifications.</p> <p>5. Suburban: Areas representing the rural-urban interface, with urban-like roads, structures, highly frequent human encounters, and dominant resource modifications encroaching into the rural landscape.</p> <p>6. Urban: Highly accessible, roaded areas dominated by human encounters and human-related structures.</p>
Recreation resources	Areas and facilities that provide recreation opportunities and experiences. Recreation resources include semi-primitive areas with few facilities and developed sites.
Rehabilitation (natural resources)	A human activity that returns a wetland, stream, buffer zone, or other sensitive area that was disturbed during construction of a permitted use to its natural or preconstruction condition.
Repair and maintenance	An activity that restores the size, scope, configuration, and design of a serviceable structure to its previously authorized and undamaged condition. Activities that change the size, scope, and configuration of a structure beyond its original design are not included in this definition.
Resource-based recreation	Those recreation uses that are essentially dependent upon the natural, scenic, or cultural resources of the Scenic Area and that do not adversely affect those resources upon which they depend.
Responsible official	The director of the department of Community Development of Clark County or the director's authorized designate. The responsible official is responsible for the administration, interpretation and implementation of this chapter.
Restoration	A human activity that returns a resource from a disturbed or altered condition to a previous, less disturbed or less altered condition. This definition does not modify or eliminate the Management Plan definition of restoration applicable only to wetlands.
Restoration (wetlands)	A human activity that converts an area that was formerly a wetland back into a wetland. This definition presumes that the area to be restored no longer qualifies as a wetland because of past activities, alterations, or catastrophic events.
Retention	A visual quality objective that provides for management activities that are not visually evident to the casual visitor. Management activities may only repeat form, line, color, and texture that are frequently found in the characteristic landscape. Changes in their qualities of size, amount, intensity, direction, pattern, etc., shall not be evident.
Review uses	Proposed uses and developments that must be reviewed by a county planning department, the Gorge Commission, or the Forest Service to determine if they comply with the policies and guidelines in the Management Plan.
Riparian area	The area immediately adjacent to streams, ponds, lakes, and wetlands that directly contributes to the water quality and habitat components of the water body. This may include areas that have high water tables and soils and vegetation that exhibit characteristics of wetness, as well as upland areas immediately adjacent to the water body that directly contribute shade, nutrients, cover, or debris, or that directly enhance water quality within the water body.
Road	<p>The entire right-of-way of any public or private way that provides ingress to or egress from property by means of vehicles or other means or that provides travel between places by means of vehicles. "Road" includes, but is not limited to:</p> <ol style="list-style-type: none"> <li>1. Ways described as streets, highways, throughways, or alleys.</li> <li>2. Road-related structures that are in the right-of-way, such as tunnels, culverts, or similar structures.</li> <li>3. Structures that provide for continuity of the right-of-way, such as bridges.</li> </ol>
Scenic Area	The Columbia River Gorge National Scenic Area.
Scenic travel corridor	Those portions of Interstate 84, the Historic Columbia River Highway, Oregon Highway 35, and Washington State Routes 14, 141, and 142 located in the Scenic Area and specifically designated to be managed as scenic and recreational travel routes.

Secretary	The Secretary of Agriculture.
Sensitive plant species	<p>Plant species that are:</p> <ol style="list-style-type: none"> <li>1. endemic to the Columbia River Gorge and vicinity, and</li> <li>2. listed as endangered or threatened pursuant to federal or state endangered species acts; or listed as endangered, threatened or sensitive by the Oregon or Washington Natural Heritage Program.</li> </ol> <p>In the Special Management Area, sensitive plant species also include plant species recognized by the Regional Forester as needing special management to prevent them from being placed on federal or state endangered species lists.</p>
Sensitive wildlife species	<p>Animal species that are:</p> <ol style="list-style-type: none"> <li>1. listed as endangered or threatened pursuant to federal or state endangered species acts;</li> <li>2. listed as endangered, threatened, sensitive, or candidate by the Washington Wildlife Commission; or</li> <li>3. considered to be of special interest to the public, limited to great blue heron, osprey, mountain goat golden eagle, and prairie falcon rearing ponds.</li> </ol> <p>In the Special Management Area, sensitive wildlife species also include animal species recognized by the Regional Forester as needing special management to prevent them from being placed on federal or state endangered species lists.</p>
Service station	A business operated for the purpose of retailing and delivering motor vehicle fuel into the fuel tanks of motor vehicles.
Serviceable	Presently useable.
Shall	Action is mandatory.
Should	Action is encouraged.
Shrub	A woody plant usually greater than 3 feet but less than 20 feet tall that generally exhibits several erect, spreading, or prostrate stems and has a bushy appearance. (Note: For the Management Plan, seedlings of woody plants that are less than 3 feet tall shall be considered part of the herbaceous layer.)
Sign	Any placard, poster, billboard, advertising structure or inscribed surface, pattern or artificial lighting, pictorial or symbolic ornament, emblematic structure, banner, fluttering apparatus, statue, model, ornamental figure, or other visually communicative or expressive device that is visible from an out-of-doors position and is used to advertise or call the public's attention to any public, business, commercial, industrial, recreational or any other activity, object for sale or lease, person or place, or to bear any kind of message. It includes any surface on which a name, text, device, signal, ornament, logotype, or advertising matters is made visible. The meaning of "sign" shall also include any sign currently in disuse, but still visible from an out-of-doors position, and any frame or support structure erected specifically to bear or uphold a sign.
Significant cultural resource (SMA)	A cultural resource that is included in, or eligible for inclusion in, the National Register of Historic Places. (The criteria for evaluating the eligibility of properties for the National Register of Historic Places appear in "National Register Criteria for Evaluation" [36 CFR 60].)
Skyline	The line that represents the place at which a landform, such as a cliff, bluff or ridge, meets the sky, as viewed from a specified vantage point (generally a key viewing area, for the purpose of the Management Plan). In areas with thick, unbroken tree cover, the skyline is generally formed by the top of the vegetative canopy. In treeless areas or areas with more open tree cover, the skyline is generally formed by the surface of the ground.
Soil Capability Class	A classification system developed by the U.S. Department of Agriculture Soil Conservation Service to group soils as to their capability for agricultural use.
Special habitat area	Wetlands, mudflats, shallow water, and riparian vegetation that have high values for waterfowl, shorebirds, raptors, songbirds, upland game, and reptiles.
Special streams	Streams that are primary water supplies for fish hatcheries and rearing ponds.
Stand	A group of trees possessing uniformity in regard to type, age, vigor, or size.

Story	A single floor level of a structure, as defined by the Uniform Building Code.
Streams	<p>Areas where surface water produces a defined channel or bed, including bedrock channels, gravel beds, sand and silt beds, and defined-channel swales. The channel or bed does not have to contain water year-round. This definition is not meant to include irrigation ditches, canals, storm or surface water runoff structures, or other artificial watercourses unless they are used to convey streams naturally occurring prior to construction of such watercourses.</p> <p>For the Management Plan, streams are categorized into two classes: perennial streams and intermittent streams. Perennial stream means a stream that flows year-round during years of normal precipitation. Intermittent stream means a stream that flows only part of the year, or seasonally, during years of normal precipitation.</p>
Structure	That which is built or constructed, an edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner. This includes, but is not limited to, buildings, walls, fences, roads, parking lots, signs, and additions/alterations to structures.
Subsurface testing	Any procedure that removes material from beneath the ground surface for the purpose of identifying cultural resources, such as shovel tests, posthole digger tests, and auger borings.
Suitability	The appropriateness of land for production of agricultural or forest products or for recreation, considering its capability for production; surrounding uses and features associated with development; compatibility with scenic, cultural, natural and recreation resources, compatibility among uses; and other cultural factors, such as roads, powerlines, dwellings, and size of ownership.
Travelers accommodations	Any establishment having rooms rented or kept for rent on a daily or weekly basis to travelers or transients for a charge or fee paid or to be paid for rental use or use of facilities.
Treaty rights or other rights	Rights reserved by the Indian tribes through the Treaties of 1855. These include the right of fishing at all usual and accustomed places, as well as the privilege of pasturing livestock and hunting and gathering on open and unclaimed lands in common with the citizens of the states.
Tributary fish habitat	Streams that are used by anadromous or resident fish for spawning, rearing and/or migration.
Undertaking	Any project, activity, program or development or change in land use that can result in changes in the character or use of a cultural resource, if any such cultural resources are located in the area of potential effects. For federal undertakings, the project, activity, or program must be under the direct or indirect jurisdiction of a federal agency or licensed or assisted by a federal agency. Undertakings include new and continuing projects, activities, or programs and any of their elements [36 CFR 800.2(o)].
Unimproved lands	Lands that generally do not have developments such as buildings or structures.
Upland	Any area that does not qualify as a wetland because the associated hydrologic regime is not sufficiently wet to elicit development of vegetation, soils, and/or hydrologic characteristics associated with wetlands.
Uses allowed outright	New uses and developments that may occur without being reviewed by a county planning department, the Gorge Commission, or the Forest Service to determine if they are consistent with the Management Plan.
Utility facility	Any structure that provides for the transmission or distribution of water, sewer, fuel, electricity, or communications.
Viewshed	A landscape unit seen from a key viewing area.
Visual Quality Objective (VQO)	A set of visual management goals established by the Forest Service to achieve a desired visual objective. These objectives include retention and partial retention, and others in the Mt. Hood and Gifford Pinchot National Forest Plans.
Visually subordinate	A description of the relative visibility of a structure where that structure does not noticeably contrast with the surrounding landscape, as viewed from a specified vantage point (generally a key viewing area, for the Management Plan). As opposed to structures that are fully screened, structures that are visually subordinate may be partially visible. They are not visually dominant in relation to their surroundings.

Water-dependent	Uses that absolutely require, and cannot exist without, access or proximity to, or siting within, a water body to fulfill their basic purpose. Water-dependent uses include, but are not limited to, docks, wharfs, piers, dolphins, certain fish and wildlife structures, boat launch facilities, and marinas. Dwellings, parking lots, spoil and dump sites, roads, restaurants, trails and paths, trailer parks, resorts, and motels are not water-dependent.
Water-related	Uses not directly dependent upon access to a water body, but whose presence facilitates public access to and enjoyment of a water body. In the GMA, water-related uses shall be limited to boardwalks, trails and paths, observation decks, and interpretative aids, such as kiosks and signs.
Wetlands	Areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. This does not include riparian areas, rivers, streams, and lakes.
Wetlands functions	The beneficial roles that wetlands serve, including storage, conveyance, and attenuation of floodwaters and stormwaters; groundwater recharge and discharge; protection of water quality and reduction of sediment and erosion; production of waterfowl, game and nongame birds, mammals, and other living resources; protection of habitat for endangered, threatened, and sensitive species; food chain support for a broad range of wildlife and fisheries; educational, historical, and archaeological value protection; and scenic, aesthetic, and recreational amenities.
Woody plant	A seed plant (gymnosperm or angiosperm) that develops persistent, hard, fibrous tissues.

#### **40.240.070 EXEMPT LAND USES AND ACTIVITIES**

This chapter shall not apply to:

- A. Any treaty or other rights of any Indian tribes.
- B. Lands held in trust by the Secretary of the Interior for Indian tribes or for individual members of Indian tribes, and lands acquired by the U.S. Army Corps of Engineers and administered by the Secretary of the Interior for the benefit of Indian tribes or of individual members of Indian tribes. This exemption shall extend to lands selected by the U.S. Army Corps of Engineers as "in lieu" fishing sites pursuant to Public Law 100-581 before or after the effective date of the Management Plan. For those "in lieu" sites chosen after the effective date of the Management Plan, the exemption shall commence upon selection by the U. S. Army Corps of Engineers.
- C. Rights to surface or ground water.
- D. Water transportation activities on the Columbia River or its tributaries. The term "activities" includes those facilities necessary for navigation.
- E. The operation, maintenance and modification of existing transmission facilities of the Bonneville Power Administration.
- F. Laws, rules or regulations pertaining to hunting or fishing.
- G. The operation, maintenance and improvement of navigation facilities at Bonneville Dam pursuant to federal law, except for the offsite disposal of excavation material.
- H. In the General Management Area, the rights and responsibilities of non-federal timber landowners under the Washington Forest Practices Act, or under county regulations that supersede those acts.

#### **40.240.080 PROHIBITED LAND USES AND ACTIVITIES**

The following land uses and activities shall not be allowed within the Columbia River Gorge National Scenic Area in Clark County:

- A. Solid waste disposal sites or sanitary landfills within the Special Management Area.
- B. New industrial development in the Scenic Area outside of the Urban Areas.

#### **40.240.090 EXISTING USES**

Except as otherwise provided below, existing uses in the Clark County portion of the Scenic Area may continue, notwithstanding the provisions of this chapter.

- A. Except as otherwise provided, any use or structure existing on the effective date of the Management Plan, may continue so long as it is used in the same manner and for the same purpose as on that date.
- B. Any use or structure damaged or destroyed by disaster or an emergency event shall be treated as an existing use or structure if an application for replacement in kind and in the same location is filed within two years of such damage or destruction. Such uses or structures shall be subject to compliance with guidelines for protection of scenic resources involving color, reflectivity and landscaping. Replacement of an existing use or structure, including those damaged or destroyed by disaster or an emergency event, by the same type of use or structure in a different location or with a different size shall be subject to Sections 40.240.490 through 40.240.590.
- C. Replacement or reestablishment of a use or structure discontinued for more than one year shall be subject to this chapter. Except as otherwise provided, an existing use or structure may be replaced within one year of discontinuation if used for the same purpose at the same location. This includes replacing an existing mobile home with a framed residence.
- D. In the Special Management Area, existing commercial and multi-family residential uses may expand as necessary for successful operation on the dedicated site, subject to Sections 40.240.490 through 40.240.590 to minimize adverse effects on scenic, cultural, natural and recreation resources. Expansion beyond the dedicated site is prohibited. Commercial uses discontinued for 1 year or more shall no longer be considered as an existing use and shall no longer be permitted, in accordance with the provisions this chapter.
- E. Existing industrial uses in the General Management Area may expand as necessary for successful operation on the dedicated site. Expansion beyond the dedicated site is prohibited.
- F. In the General Management Area, existing industrial uses may convert to less intensive uses. A less intensive use is a commercial, recreation or residential use with fewer adverse effects upon scenic, cultural, natural and recreation resources.
- G. In the General Management Area, existing development or production of mineral resources may continue unless the Gorge Commission determines that the uses adversely affect the scenic, cultural, natural or recreation resources of the Scenic Area. These uses will be considered discontinued and subject to this chapter if any of the following conditions exist:
  - 1. The mined land has been reclaimed naturally or artificially to a point where it is revegetated to fifty percent (50%) of its original cover (considering both basal and canopy) or has reverted to another beneficial use, such as grazing. Mined land shall not include terrain which was merely leveled or cleared of vegetation.
  - 2. The site has not maintained a required state permit.
  - 3. The site has not operated legally within 5 years before the date of adoption of the Management Plan.
- H. Uses involving the exploration, development or production of sand, gravel or rock in the Special Management Area may continue when:

1. The sand, gravel, or crushed rock is used for construction or maintenance of roads used to manage or harvest forest products in the Special Management Area; and
  2. A determination by the Forest Service finds that the use does not adversely affect the scenic, cultural, natural or recreation resources.
- I. Except as otherwise provided, whether a use has a vested right to continue will be determined by the law on vested rights in the appropriate state.

#### **40.240.100 APPLICATION FOR REVIEW AND APPROVAL**

- A. Applications received under this chapter shall be reviewed as Type II procedures specified in Section 40.510.020, except where specified otherwise herein.
- B. Prior to initiating any use or development which requires review and approval by the responsible official, an application shall be completed pursuant to Section 40.240.100. The responsible official shall accept and review the application pursuant to Sections 40.240.120 through 40.240.210 for consistency with the appropriate guidelines of this rule. Review of a proposed use or development shall commence upon the acceptance of an application by the responsible official. The responsible official will charge a fee for review of applications.
- C. Standard application forms shall be available at county and city planning offices, the offices of the Columbia River Gorge Commission and the Forest Service.
- D. An application for permit review within the Columbia River National Scenic Area shall submit eight (8) individually bound copies of the following materials unless a lesser number is specified.
1. The original application form provided by the planning responsible official shall be completed and signed by the applicant;
  2. The pre-application conference summary and a description of information submitted in response to the pre-application conference;
  3. The requisite fee shall accompany the application;
  4. The following maps of the GIS development packet (as available from the Community Development Department):
    - a. General location map,
    - b. Elevation contours map,
    - c. Aerial photography map (most recent year currently available through Clark County Community Development Department),
    - d. Aerial photography with contours,
    - e. Current zoning map,
    - f. Current comprehensive plan map,
    - g. Map of C-Tran bus routes, park and trails,
    - h. Water, sewer and storm systems map,
    - i. Soil type map,
    - j. Environmental constraints map, and
    - k. Assessor's quarter-section map.
  5. A narrative explaining how the application meets or exceeds each of the applicable approval criteria and standards, and issues identified in the pre-application conference, including the minimum area and dimensions of the base zone and a general description of how services will be provided to the site;
    - a. If the site is visible from any Key Viewing Areas (KVA) the applicant needs to provide conceptual elevation drawings for the proposed structures. Also a description of the height, shape, color, building materials, exterior lighting and landscaping materials. The drawings should include the appearance of proposed buildings when built and surrounding final grades refer to Section 40.240.490(B)(4). If the applicant feels the site is not visible from any KVA's this must be demonstrated.
    - b. If the site is visible from any KVA, the applicant is encouraged to provide photographs from the KVA toward the building site with balloons or other siting device to verify visual subordination. Photographs can also be used to verify the site is not visible from any KVA, if that is the case.
    - c. The height of buildings is required in the applications, even if the site is not visible from a KVA.

- d. The applicant shall address all applicable criteria outlined in Section 40.240.490.
- 6. Information necessary to demonstrate that the subject lot(s) has been created legally:
  - a. Prior county short plat, subdivision, lot determination or other written approvals, if any, in which the parcel was formally created or determined to be a legal lot; or
  - b. Sales or transfer of deed history, dating back to 1969, or a condition satisfying subsection (7)(a) or this section, to include copies of recorded deeds and/or contracts verifying the date of creation of the parcel in chronological order with each deed identified with the assessor's lot number;
- 7. A proposed plan drawn to scale. The scale of the plan shall be large enough to allow the responsible official to determine the location and extent of the proposed use or development and evaluate its effects on scenic, cultural, natural, and recreation resources. The map shall be prepared at a scale of 1-inch equals 200 feet (1:2,400), or a scale providing greater detail. The plan shall clearly depict the following information:
  - a. General Information.
    - (1) applicant's name, mailing address and phone number,
    - (2) Owner's name and mailing address,
    - (3) Contact person's name, address and phone number,
    - (4) North arrow (oriented to the top, left or right of the page), scale and date,
    - (5) Proposed name of project,
    - (6) Vicinity map covering one-fourth (1/4) mile radius from the development site, and
    - (7) Area of the site in acres or square feet.
  - b. Existing Conditions. (For purpose of Fully Complete determination, only those existing conditions that are shown on the GIS map, known by the applicant or are discussed in the pre-application conference summary must be included on the proposed plan.)
    - (1) Environmental. On or within one hundred (100) feet of the site:
      - (a) Topography (at two (2) foot contour intervals if available from a public source),
      - (b) watercourses (streams, rivers, etc.) with thread of stream surveyed for all on-site watercourses,
      - (c) Areas prone to flooding,
      - (d) FEMA designated floodplains, flood fringe, or floodway,
      - (e) Water bodies and known wetlands,
      - (f) Wetland delineation and assessment study for all on-site wetlands four (4) copies of study required,
      - (g) Any unstable slopes and landslide hazard areas,
      - (h) Geotechnical report for all unstable slopes or landslide hazard areas on the site,
      - (i) Significant wildlife habitat or vegetation, and
      - (j) Significant historic, cultural or archaeological resources,
    - (2) Land Use and Transportation.
      - (a) Layout, square footage and dimensions of all parcels,
      - (b) Location(s) of any existing buildings(s) on the site and use,
      - (c) Location and width of existing easements for access, drainage, utilities, etc.,
      - (d) Name, location and width of existing rights-of-way,
      - (e) Name, location, width and surfacing materials (e.g., gravel, asphalt or concrete, etc.) of roadways and easements (private and public),
      - (f) Location of existing driveways and those driveways across the street to include distance between driveways and roadways (centerline to centerline),
      - (g) Location and width of existing pedestrian and bicycle facilities on and within one hundred (100) feet of the site, and
      - (h) Transit routes and stops within one-fourth (1/4) mile of the development site,
    - (3) Water and Sewer. Make a note on the plan indicating the following:
      - (a) Location and direction to the nearest fire hydrant,
      - (b) Location of existing sewage disposal systems and wells on the site, and
      - (c) Location of existing sewage disposal systems and wells within one hundred (100) feet of the site (as available from the health district).
  - c. Proposed Improvements.
    - (1) Environmental.



- (a) Wetland, stream, steep bank buffer areas/protected areas, and
- (b) Planned enhancement areas.
- (2) Land Use and Transportation.
  - (a) Dimensions of all proposed easements,
  - (b) Location (i.e., dimensions from property lines) of any existing buildings to remain on the site to include square footage. For all structures include the number of stories, construction type (e.g., metal, wood, concrete block, etc.) and proposed uses,
  - (c) Setbacks from property lines shall be shown on the site plan.
  - (d) Location and width of all road rights-of-way,
  - (e) Location width (e.g., curb to curb distance) and surface material of all proposed roadways (private or public), provided by drawing or note and typical cross-section (from county road standards),
  - (f) Location of all road segments in excess of fifteen percent (15%) grade that are either on the site or within five hundred (500) feet of the site which are being proposed for site access,
  - (g) Location, width, estimated grade and surface material of off-site roads which will provide access to the site within five hundred (500) feet of the site,
  - (h) Location and width of proposed driveways for corner lots and driveways where site distance standards cannot be met,
  - (i) Site distance triangles where site distance standards cannot be met,
  - (j) Location and width of proposed pedestrian and bicycle improvements other than those in standard locations within road rights-of-way,
  - (k) Location and width of proposed easements for access, drainage, utilities, etc. (provided by drawing or note),
  - (l) Layout of proposed structures including square feet,
  - (m) Architectural drawings and sketches, indicating floor plan, elevation, types of materials and colors, and type of construction per the Uniform building Code,
  - (n) Narrative on proposed uses, hours of operation, frequency of truck deliveries, and construction schedule,
  - (o) Location, dimensions and number of off-street parking and loading areas,
  - (p) Sign plan, and
  - (q) Location and dimensions of recyclable and solid waste storage areas.
- (3) Landscape Plan.
  - (a) Location, number, species, size at planting, and spacing of proposed plant materials,
  - (b) Location, number, species and size of existing landscape material to be removed and/or retained,
  - (c) The location, type (such as sod, groundcover or shrub mass) and area (in terms of square feet and percentage of site) of all soft landscaped areas and buffers,
  - (d) Location, height and materials of fences, buffers, berms, walls and other methods of screening,
  - (e) Surface water management features integrated with landscape, recreation or open space areas,
  - (f) Location, size and construction type of hard landscaping features such as pedestrian plazas,
  - (g) Active or passive recreational or open space features, and
  - (h) Final site contours.
  - (i) Fire hydrants. The location of all fire hydrants
- 8. A preliminary stormwater plan per Section 40.370.040(F)(3).
- 9. A proposed phasing plan (if any proposed) to include transportation and water quality improvements;
- 10. Transportation impact study, if required pursuant to Chapter 40.350.
- 11. Utility review from the public sewer purveyor or one (1) copy of a preliminary soil suitability analysis, or equivalent for on-site systems from the health district.
- 12. Utility review from the public water purveyor, noting the ability to meet water pressure and fire flow requirements of the fire marshal or current evidence of the availability of suitable groundwater where water purveyor has determined public water or community water systems cannot be provided.
- 13. A completed State Environmental Policy Act (SEPA) checklist.

14. Applications necessarily associated with the Gorge Permit review, to the extent applicable, for variances to dimensional requirements of the base or overlay zones, for wetland and habitat permits, and for modifications to the road standards in Chapter 40.350.
  15. Any and all existing covenants or restrictions and/or easements that apply to the property.
  16. The corners of each proposed building should be staked and flagged at the time of application.
  17. Appropriate protections of the stream that are on the property need to be taken in accordance with Chapter 40.440 and Section 40.240.540.
  18. A Forest Practice application is required for any commercial removal of trees from the property.
  19. In the Special Management Area, applications and/or site plans shall contain the natural resources information required in Section 40.240.570(B).
  20. Any additional information that the applicant feels will assist in the evaluation of the proposal including, but not limited to, maps, drawings, and development plans.
  21. The signature of the applicant and property owner or a statement from the property owner indicating that he is aware of the application being made on his property.
  22. The signature of the property owner on a statement that authorizes the responsible official or the responsible official's designee reasonable access to the site in order to evaluate the application.
- E. Applications for the following uses or developments shall include additional information as required by the pre-application staff report or by the responsible official.
1. All buildings, roads, or mining and associated activities proposed on lands visible from Key Viewing Areas, pursuant to Section 40.240.490(B)(4).
  2. In the General Management Area, production and/or development of mineral resources and expansion of existing quarries pursuant to Sections 40.240.490(A)(5), (B)(4), (B)(5), (B)(23) and (B)(25).
  3. In the General Management Area, any structural development involving more than 100 cubic yards of grading on sites visible from key viewing areas and which slope is between ten and thirty percent (10-30%), pursuant to Section 40.240.490(B)(21).
  4. In the General Management Area, vegetation management projects in public rights of way along Scenic Travel Corridors, pursuant to Section 40.240.490(D)(4).
  5. Large-scale uses as defined by Section 40.240.510(A)(3)(c) shall include reconnaissance survey reports, pursuant to Sections 40.240.510(A)(3)(f) and (g).
  6. Proposed uses that would alter the exterior architectural appearance of buildings and structures that are 50 years old or older, or would compromise features of the surrounding area that are important in defining the historic or architectural character of buildings that are 50 years old or older, pursuant to Section 40.240.510(A)(3)(h)(3).
  7. In the General Management Area, new uses located in or providing recreational access to the Columbia River or its fishbearing tributaries, pursuant to Section 40.240.190(H)(1)(a).
  8. In the General Management Area, any review use in a wetland or within a wetland buffer zone, pursuant to Section 40.240.530(A)(2).
  9. In the General Management Area, any review use in a stream, pond, lake, or within their buffer zones, pursuant to Section 40.240.540(A)(2).
  10. In the General Management Area, any review use within 1000 feet of a sensitive wildlife area or site, pursuant to Section 40.240.550(A)(2). Large-scale uses as defined by Section 40.240.550(C) shall also include field survey information, pursuant to Section 40.240.550(C)(5).
  11. In the General Management Area, any review use within 1000 feet of a sensitive plant, pursuant to Section 40.240.560(A)(2). Large-scale uses as defined by Section 40.240.560(C) shall also include field survey pursuant to Section 40.240.560(C)(5).
  12. In the General Management Area, on lands zoned Gorge Large-Scale Agriculture, a single-family dwelling in conjunction with agricultural use, pursuant to Section 40.240.230(A)(5), and if applicable, Section 40.240.230(A)(6).
  13. In the General Management Area, on lands zoned Gorge Large-Scale Agriculture, a single-family dwelling not in conjunction with agricultural use, pursuant to Section 40.240.230(A)(14).
  14. In the General Management Area, on lands zoned Gorge Large-Scale Agriculture, a single-family dwelling for an agricultural operator's relative, pursuant to Section 40.240.230(A)(8).
  15. In the Special Management Area, on lands zoned Gorge SMA Federal or Non-Federal Forest, a single-family dwelling, pursuant to Section 40.240.300(B)(10).

16. In the Special Management Area, on lands zoned Gorge SMA Federal or Non-Federal Forest, forest practices, pursuant to Section 40.240.300(B)(2).
17. In the Special Management Area, on lands designated Open Space, any new use or development, pursuant to Commission Rule 350-80-340(1 1).
18. In the Special Management Area, on lands zoned Gorge SMA Agriculture, a single-family dwelling necessary and accessory to agricultural use, pursuant to Section 40.240.230(B)(2).
19. In the Special Management Area, on lands zoned Gorge SMA Agriculture, farm labor housing and agricultural buildings, pursuant to Section 40.240.230(B)(4).
20. In the General Management Area, on lands zoned Gorge Small Woodland, a single-family dwelling pursuant to Section 40.240.300(A)(1).
21. In the General Management Area, on lands zoned Gorge Small Woodland, a single-family dwelling in conjunction with agricultural use pursuant to Section 40.240.230.(A)(5).
22. In the General Management Area, on lands Gorge Woodland, agricultural labor housing, pursuant to Section 40.240.300(A)(15).
23. Other uses as deemed necessary by the responsible official.

F. Completed application forms shall be submitted directly to the Department of Community Development.

G. Emergency/Disaster Response Application Process

1. Within 30 days following notification, pursuant to Section 40.240.150, a post-emergency /disaster response application shall be submitted by the party conducting the response action to the county or Forest Service for federal agency actions. In the case of an event with multiple responding parties, the agency providing initial notification as required herein shall submit the application. An exception to this may occur if another responding party, by mutual agreement with other respondents, elects to submit the application. Requests to extend this submittal deadline may be made in writing and shall include the reason why extension is necessary. Extension shall not exceed 30 days in duration and no more than two (2) extensions shall be granted.
2. Post-emergency/disaster response applications shall only address development activities conducted during an emergency/disaster response. Applications shall specify if developments placed during an emergency/disaster event is permanent or temporary. Applicants shall be responsible for operations under their control and that of other responders, upon mutual agreement. Responder not agreeing to have another responder address their actions shall be responsible to submit an application for those actions.
3. Emergency/disaster response actions not involving structural development or ground disturbance with mechanized equipment are exempt from these requirements, except for those actions within 500' of known cultural resource (as determined in notification process).
4. Applications shall include the following information:
  - a. Applicants name and address
  - b. Location of emergency/disaster response
  - c. A written description of the emergency/disaster response, including any structures erected, excavation or other grading activities, or vegetation removal.
  - d. A map of the project area drawn to scale, at a scale of 1" = 200' or scale providing greater detail. The map shall include:
    - (1) North arrow and scale
    - (2) Boundaries, dimensions and size of subject parcel(s)
    - (3) Bodies of water, watercourses, and significant landforms.
    - (4) Existing roads and structures
    - (5) New structures placed and any vegetation removal, excavation or grading resulting from the response actions.
  - e. An exception to the scale requirements of subsection (4)(d) may be granted for an event encompassing an area greater than one square mile. In such cases, a clear sketch map of the entire response action area shall be provided. In addition, a map of 1" = 200' or a scale providing greater detail shall be provided that shows a section of the response area exemplifying the specific actions being taken.
5. Emergency/Disaster Response applications shall be considered a Type II application pursuant to Section 40.510.020.

#### **40.240.110 PRE-APPLICATION CONFERENCE**

Within the Columbia River Gorge National Scenic Area pre-application conferences shall be mandatory for land use proposals requiring Type II or Type III review under Sections 40.510.020 or 40.510.030. The purposes of the conference shall be to acquaint the applicant with the substantive and procedural requirements of this chapter, to discuss the principle elements of the proposed action, and to identify guidelines that create opportunities or pose constraints for the proposed action.

#### **40.240.120 ACCEPTANCE OF APPLICATION**

The responsible official shall review the application for completeness and adequacy within the timeframe pursuant to Section 40.240.160(C). To determine that an application is fully complete refer to Section 40.240.100, Application for Review and Approval. Additional submittals (additional to Section 40.240.100) may be required through reference in the pre-application report.

- A. No application shall be accepted until all documented omissions and deficiencies have been corrected by the applicant. The responsible official shall notify the applicant of all omissions and deficiencies in writing within the time frame pursuant to Section 40.240.160(C).
- B. No application shall be accepted which the responsible official deems cannot be acted upon reasonably within the time frame pursuant to Section 40.240.160(C) , except when the applicant consents to a longer period for action.
- C. No application shall be accepted unless accompanied by a list of names and addresses of the adjacent property owners within 500 feet of the subject parcel. A statement from the County Assessor or appropriate agency confirming the accuracy of the list shall accompany the list.
- D. No application for a proposed use which is explicitly prohibited by Section 40.240.080 shall be accepted.
  - 1. The application shall be returned to the applicant.
  - 2. A letter, signed by the responsible official, stating that the proposed use is prohibited and citing the guideline which explicitly prohibits the proposed use, shall be sent to the applicant.
  - 3. Issuance of this letter shall not prohibit the applicant from appealing the decision pursuant to this title.

#### **40.240.130 NOTICE OF DEVELOPMENT REVIEW**

- A. Notice of development review shall be issued pursuant to Sections 40.510.020(G) or 40.510.030 (E), and shall provide the following information:
  - 1. The notice shall state that the application and supporting documents are available for inspection at Clark County and Gorge Commission offices during normal working hours.
  - 2. The notice shall state the applicant must comply with all applicable local, state and federal laws.
- B. The notice shall be mailed to:
  - 1. The U.S. Forest Service, Washington Department of Fish and Wildlife, Columbia River Gorge Commission, Indian Tribes, and the applicable city, and local library, and any other party that has requested notice; and
  - 2. The Washington Department of Natural Resources Natural Heritage Program, if the responsible official or the Columbia River Gorge Commission or its staff determines that such notice is warranted; provided that if the Columbia River Gorge Commission or its staff determines that such notice is warranted, it shall forward notice to the Heritage Program; and
  - 3. As determined by Sections 40.510.020(G) for Type II or 40.510.030 (E) for Type III.
- C. In addition to notice, fully complete application packets shall be routed to the Gorge Commission and any other party that has requested a fully complete application.

#### **40.240.140 COMMENT PERIOD**

Interested persons shall have 15 working days from the date which the notice is sent to submit written comments to the responsible official relative to the consistency of the proposed actions with the guidelines of this chapter:

- A. Within 7 days of the close of the comment period, the responsible official shall determine if a wildlife management plan pursuant to Section 40.240.550(F) or a rare plant protection and rehabilitation plan pursuant to Section 40.240.560(F) is required.
- B. For proposed uses or developments where a cultural resources survey (reconnaissance or historic) is required and where the Commission is performing the survey, the survey shall be completed by the close of the comment period. Upon receipt of the completed survey, the responsible official shall forward the survey to the State Historic Preservation Officers, and Indian Tribes pursuant to Sections 40.240.510.(A)(2) and (B)(2)(a).
- C. Within 7 days of the close of the 30-day reconnaissance survey comment period for State Historic Preservation Officers and Indian Tribes, the responsible official shall determine if an evaluation of significance pursuant to Section 40.240.510(C) is required.

#### **40.240.150 EMERGENCY/DISASTER RESPONSE NOTIFICATION REQUIREMENTS**

- A. Actions taken in response to an emergency/disaster event (as defined in Section 40.240.060) are subject to the following notification requirements. Repair and maintenance of an existing serviceable structure to its previously authorized and undamaged condition are not subject to the notification requirements.
  - 1. Notification of an emergency/disaster response activity shall be submitted by the next business day of the commencement of a response action. Notification shall be submitted by the party conducting the activity or their representatives. In the case of multiple parties, the first party to respond shall provide the required notification, unless upon mutual agreement of the parties, another responder assumes the responsibility.
  - 2. Notification shall be submitted to Department of Community Development by mail, fax, telephone, e-mail or in person. If notification occurs by telephone, a hard copy of the notification shall be submitted by mail or in person within 7 days.
  - 3. The following information is required with the notification:
    - a. Nature of emergency/disaster event
    - b. Description of emergency/disaster response activities and magnitude or response actions to be taken
    - c. Location of the emergency/disaster response activities
    - d. Estimated start and duration of the emergency/disaster response activities
    - e. Contact person and phone number for the parties conducting the emergency/disaster response actions.
- B. Upon notification of an emergency/disaster response action, the county shall as soon as possible:
  - 1. Review the natural resource inventory data and notify the contact person for the emergency/disaster of all inventoried natural resource sites, and their buffers, that are within or adjacent to the response area or that may be adversely affected by response activities;
  - 2. Notify the Washington State Department of Fish & Wildlife of all noticed emergency/disaster response actions.
  - 3. Notify the U.S. Forest Service, NOAA Fisheries, State of Washington Office of Historic Preservation and the Tribal governments of all emergency/disaster response activities.
- C. Upon notification of a response action, the U.S. Forest Service shall, as soon as possible, offer the services of a resource advisor to the agency(ies) conducting the response action. The resource advisor will provide on-site advice to minimize impacts to resources from emergency/disaster response actions.

#### **40.240.160 DECISION OF THE RESPONSIBLE OFFICIAL**

- A. In making a decision on a proposed use or development the responsible official shall:
  - 1. Consult with the applicant and such agencies as the responsible official deems appropriate;

2. Consider information submitted by the applicant and all other relevant information available;
  3. Consider all comments submitted pursuant to Section 40.240.140, and provide notice and consider the comments of the Forest Service and/or Columbia River Gorge Commission. The absence of timely comments of any parties provided notice shall not automatically preclude the responsible official from issuing a decision.
- B. The responsible official shall approve a proposed use or development only if it is consistent with the standards of this chapter and other applicable regulations. In approving a proposed development action, the responsible official may impose conditions as necessary to ensure consistency with this chapter.
- C. The responsible official shall issue a decision on a proposed use or development including findings of fact and conclusions of law and any conditions to ensure consistency with the standards of this chapter and other applicable regulations within the time frame pursuant to Sections 40.510.020(H) or 40.510.030(F) except in one or more of the following situations:
1. The applicant consents to an extension of time.
  2. The responsible official determines that additional information is required pursuant to Section 40.240.140.
  3. The responsible official determines that additional information is necessary to evaluate the impacts of the proposed use to scenic, cultural, natural, and recreation resources.
  4. Unforeseen circumstances including, but not limited to, weather, illness, etc.
- D. The responsible official shall mail a copy of the decision to the applicant, the Commission, the Forest Service, the applicable state, the Indian Tribes, the applicable county and/or city and each person who submitted comments under Section 40.240.190. The decision shall set forth the rights of appeal under Sections 40.510.020(J) or 40.510.030(H).
- E. The decision of the responsible official shall be final unless a Notice of Appeal is filed in accordance with this title.
- F. The decision of the responsible official approving a proposed development action shall become void:
1. When the development action is not undertaken within two years of the decision, or
  2. When the development action is discontinued for any reason for one year or more.
- G. An applicant may request an extension of the validity of a development approval. Such request shall be considered an administrative action and shall be submitted to the responsible official prior to the expiration of such approval, in writing, stating the reason why an extension should be granted.

The responsible official may grant an extension of up to 12 months in the validity of a development approval if it is determined that conditions, for which the applicant was not responsible, would prevent the applicant from commencing his operation within the original time limitation.

The responsible official shall not grant an extension if the site characteristics and/or new information indicates that the proposed use may adversely affect scenic, cultural, natural or recreation resources in the National Scenic Area.

The development approval time-lines in this section shall take precedence over the development approval time lines in Section 40.500.010(B).

#### **40.240.170 APPEAL PROCESS**

Appeals will be handled pursuant to Section 40.510.020(J) for Type II applications or Section 40.510.030(H) for Type III applications.

#### **40.240.180 CHANGES OR ALTERATIONS TO AN APPROVED ACTION**

Any change or alteration to a development action approved by the Commission or responsible official pursuant to this rule shall be processed as new action, except that the responsible official may approve minor changes or

alterations deemed to be consistent with the guidelines of this chapter and the findings and conclusions for the original action.

#### **40.240.190 GENERAL GUIDELINES**

The following uses may be permitted when allowed by the land use designation, subject to compliance with the appropriate scenic, cultural, natural and recreation resources guidelines (Sections 40.240.490 through 40.240.590):

- A. Land Divisions. Land Divisions within the Columbia River Gorge National Scenic Area may be allowed subject to the following:
  - 1. New land divisions are not allowed in the Special Management Area, unless the creation of a new parcel will facilitate land acquisition by the federal government to achieve the policies and guidelines of the Management Plan.
  - 2. New land divisions shall be permitted in the General Management Area if the following are met:
    - a. Proposed land divisions comply with Chapters 40.510 and 40.580, and the procedural requirements of Chapters 40.520 and 40.540. Divisions of land resulting in four or fewer lots shall be reviewed under the procedures of Section 40.540.030 and Section 40.510.020. Divisions of land resulting in five or more lots shall be reviewed under the procedures of Section 40.540.040 and Section 40.510.030.
    - b. Lots resulting from such proposed land divisions shall comply with all applicable provisions of this chapter, including minimum specified lot sizes and associated zoning maps.
  - 3. Unless otherwise specified, creation of a parcel, regardless of size, or any division of land except a lot-line adjustment shall be subject to the guidelines in this chapter.
  - 4. At the time of creation of one or more new parcels, consolidation of access shall be considered in order to reduce adverse effects on scenic, cultural, natural and recreation resources.
  - 5. Adjustment of the boundary between two or more contiguous parcels that does not result in the creation of an additional parcel may be allowed if none of the parcels larger than the minimum parcel size before the adjustment becomes smaller than the specified minimum parcel size after the adjustment.
  - 6. In General Management Areas zoned Gorge Large or Small-scale Agriculture, or Gorge Small Woodland, reconfiguration of lots provided through boundary line adjustments, provided that lots eligible for reconfiguration, meet the following:
    - a. Lots eligible for such reconfiguration are smaller than the minimum lot size established for new lots in the applicable district. Lots which meet the minimum lot size standard may be eligible for adjustment through this process, but may not decrease below the established minimum size.
    - b. Lots eligible for reconfiguration are determined to be legally created, have lawful access and be buildable.
    - c. The number of lots created as a result of the reconfiguration shall not exceed the number of original lots reconfigured.
    - d. Created lots shall have septic suitability approval and adequate potable water at the time of occupancy, subject to Section 40.370.020.
    - e. Created lots shall be at least one acre in size, with a minimum width of 140 feet.
    - f. Each group of reconfigured lots shall not exceed 8 lots.
    - g. The reconfiguration shall further a public interest of encouraging the protection of public lands, expand the amount of commercially viable resource land under single ownership, or reduce the amount of road and utility construction.
- B. Agricultural Buffer Zones. All new buildings shall comply with the following setbacks when proposed to be located on a parcel adjacent to lands zoned Gorge Large-Scale or Small-Scale Agriculture and which are currently used for or are suitable for agricultural use:
  - 1. Setback Guidelines

<b>Type of Buffer (feet from property line of adjacent Agricultural parcel)</b>			
Existing Type of Agriculture	Open or Fenced	Natural or Created Vegetation Barrier	8-foot Berm or Terrain Barrier
Orchards	250'	100'	75'
Row crops/ vegetables	300'	100'	75'
Livestock grazing, pasture, haying	100'	15'	20'
Grains	200'	75'	50'
Berries, vineyards	150'	50'	30'
Other	100'	50'	30'

2. Earth berms may be used to satisfy, in part, the setback guidelines. Berms shall be a minimum of 8 feet in height, and contoured at 3:1 slopes to look natural. Shrubs, trees and/or grasses shall be planted on the berm to control erosion and achieve a finished height of 15 feet.
  3. The planting of a continuous vegetative screen may be used to satisfy, in part, the setback guidelines. Trees shall be at least 6 feet high when planted and reach an ultimate height of at least 15 feet. The vegetation screen shall be planted along the appropriate parcel line(s), and be continuous.
  4. The necessary berming and/or planting must be completed during the first phase of development and maintained in good condition.
  5. If several crops or crop rotation is involved in the adjacent operation, the greater setback shall apply.
  6. A variance to buffer setbacks may be granted upon a demonstration that the guidelines of Section 40.240.190(G) have been satisfied.
- C. Forest Buffers. The approval of new dwellings and accessory structures on or immediately adjacent to lands within a Forest zone in the General Management Area shall comply with the following guidelines:
1. The dwelling and structures shall be sited on the parcel so that they will have the least impact on nearby or adjoining forest operations. Dwellings shall be set back at least 200 feet from adjacent parcels within the Forest zone. The responsible official may grant a variance to this setback under the provisions of Section 40.240.190(G), or upon a finding that objectives of Sections 40.240.190(C)(2), (C)(3) and (C)(4) cannot be met without such a variance, and that it is in the public interest to provide greater weight to those objectives rather than the setback.
  2. The amount of forest land used to site dwellings, structures, access roads, and service corridors shall be minimized. This can include locating new dwellings and structures as close to existing public roads as possible, thereby minimizing the length of access roads and utility corridors; or locating the dwelling, access road, and service corridors on portions of the parcel that are least or poorly suited for forestry. Areas may not be suitable for forestry because of existing non-forest uses, adjacent dwellings, or land productivity.
  3. Dwellings shall be located to minimize the risks associated with fire. Dwellings should be located on gentle slopes and in any case not on slopes which exceed 40 percent. Narrow canyons and draws should be avoided. Dwellings should be located to minimize the difficulty in gaining access to the structure in the case of fire. Dwellings should be located to make the access roads as short and flat as possible.
  4. Grouping proposed development closer to existing development on adjacent lands may be used to minimize impacts on nearby or adjacent forest operations.
- D. Temporary Use Hardship Dwellings shall be permitted in the General Management Area on parcels containing a principal residential dwelling, subject to the following:
1. The temporary placement of a mobile home in the General Management Area may be granted under the following circumstances:
    - a. A family hardship exists where conditions relate to the necessary care for a member of the family occupying the principal dwelling and where medical conditions relate to the infirm or aged.
    - b. The hardship dwelling shall use the same subsurface sewage disposal system and well used by the existing dwelling, or utilize existing public sewer and water systems. In all cases well and septic systems shall be used in a manner and location to minimize impacts to resource lands.



- c. The hardship dwelling is found to be consistent with the guidelines for protection of scenic, cultural, natural and recreation resources of Sections 40.240.490 through 40.240.590 of this chapter.
  2. A permit may be issued for a 2-year period, subject to annual review for compliance with the provisions of this rule and any other conditions of approval.
  3. Upon expiration of the permit or cessation of the hardship, whichever comes first, the mobile home shall be removed within 30 days.
  4. A new permit may be granted upon a finding that a family hardship continues to exist.
- E. Home Occupations. Type I and II Home occupations may be established as specified in various land use designations consistent with provisions of Section 40.260.100, as well as the following:
1. Parking not associated with residential use shall be screened so it is not visible from Key Viewing Areas.
  2. In the General Management Area, a bed and breakfast lodging establishment that is two bedrooms or less is considered a home occupation and shall meet the guidelines of Sections 40.240.190(E) and (F).
  3. In the Special Management Area, a bed and breakfast lodging establishment that is two bedrooms or less is considered a home occupation and shall meet the guidelines of Sections 40.240.190(E) and (F), except (F)(4).
  4. No more than 500 square feet of an accessory structure may be used for a home occupation.
  5. New structures shall not be constructed for the primary purpose of housing a home occupation.
  6. No retail sales may occur on the premises, except incidental sales at lodging establishments authorized in Section 40.240.190(E).
- F. Bed and Breakfast Inns. Bed and breakfast inns may be established as authorized in specified land use designations subject to Section 40.260.050, and the following:
1. Guests may not occupy a facility for more than 14 consecutive days.
  2. One non-animated, non-illuminated sign not exceeding 4 square feet in area may be permitted on the structure or within the yard containing the structure.
  3. Parking areas shall be screened so as to not be visible from Key Viewing Areas.
  4. In the Special Management Area, bed and breakfast inns associated with residential use shall be allowed only in structures that are included in, or eligible for inclusion in, the National Register of Historic Places.
  5. A bed and breakfast inn may contain no more than five (5) rooms.
- G. Variances from Setbacks and Buffers within the General Management Area. Variances from setbacks and buffers within the General Management Area shall be reviewed under Administrative Variance criteria of Section 40.570.020, including variance requests in excess of 25%, which shall be subject to a Type II review. The following criteria shall also apply:
1. When setbacks or buffers for the protection of scenic, cultural, natural, recreation, agricultural or forestry resources, or non-resource uses, overlap or conflict, the setbacks or buffers may be varied upon a demonstration that:
    - a. A setback or buffer to protect one resource or use would cause the proposed use to fall within a setback or buffer to protect another resource; and
    - b. Variation from the specified setbacks or buffers would, on balance, best achieve the protection of the affected resources and uses, provided that resource buffers or setbacks shall prevail in the event of conflict with non-resource buffers or setbacks.
  2. A setback or buffer for protection of scenic, cultural, natural, recreation, agricultural or forestry resources, or non-resource uses, may be varied to allow a residence to be built on a parcel of land upon a demonstration that:
    - a. The land use designation otherwise authorizes a residence on the tract;
    - b. No site exists on the tract (all contiguous parcels under the same ownership) on which a residence could practicably be placed in full compliance with the setback or buffer;
    - c. The variance from the specified setback or buffer is the minimum necessary to allow the residence.
  3. The responsible official may grant a variance to the setback and buffer requirements in Section 40.240.580, upon finding that the following conditions exist:
    - a. The proposed project is a public use, resource-based recreation facility providing or supporting either recreational access to the Columbia River and its tributaries, or recreational opportunities associated with a Scenic Travel Corridor.

- b. All reasonable measures to redesign the proposed project to comply with required setbacks and buffers have been explored, and application of those setbacks and buffers would prohibit a viable recreation use of the site as proposed.
- c. Resource impacts have been mitigated to less than adverse levels through design provisions and mitigation measures.
- d. The variance is the minimum necessary to accommodate the use.

#### H. Indian Tribal Treaty Rights and Consultation

##### 1. Tribal Government Notice.

- a. New uses located in, or providing recreation river access to, the Columbia River or its fishbearing tributaries shall include the following supplemental information:
  - (1) The site plan map shall show adjacent river areas at least ½-mile upstream and downstream from the project site, the locations at which river access is planned, and the locations of all tribal fishing sites known to the project applicant.
  - (2) The site plan text shall include an assessment of the potential effects that new uses may have on Indian treaty rights. The assessment shall:
    - (a) Describe the type of river access and uses proposed, estimated period when the development would be used, and anticipated levels of use (people, boats, and other uses) during peak-use periods.
    - (b) List tribal commercial fishing seasons in the project vicinity, as established by the four treaty tribes.
    - (c) List tribal ceremonial fishing seasons in the project vicinity.
    - (d) Based on the above factors, assess the potential effects that the proposed uses may have on Indian treaty rights.
- b. Notices shall include a treaty rights protection plan if new uses may affect Indian treaty rights. The protection plan shall specify measures that will be used to avoid effects to Indian treaty rights. These measures may include reducing the size and modifying the location or design of the proposed uses, seasonal closures, stringent onsite monitoring, information signs, and highly visible buoys or other markers delineating fishing net locations.
- c. Indian tribal governments shall have 20 calendar days from the date a notice is mailed to submit substantive written comments to the responsible official. Indian tribal governments must identify the treaty rights that exist in the project vicinity and explain how they would be affected or modified by the new uses.

##### 2. Tribal Government Consultation

- a. When substantive written comments are submitted to a responsible official in a timely manner, the project applicant shall offer to meet with the responsible official and the Indian tribal government that submitted comments within 10 calendar days. The 10-day consultation period may be extended upon agreement between the project applicant and the Indian tribal government. Consultation meetings should provide an opportunity for the project application and tribal representatives to identify potential conflicts and explore options to eliminate them. The project applicant must demonstrate that the proposed use would not affect or modify treaty or other rights of any Indian tribe.
- b. Any substantive comments, recommendations, or concerns expressed by Indian tribal governments during the consultation meeting shall be recorded and addressed by the project applicant in a treaty rights protection plan. The protection plan shall include measures to avoid effects to treaty and other rights of any Indian tribe.
- c. The responsible official shall submit all protection plans to the Indian tribal governments. Indian tribal governments shall have 30 calendar days from the date a protection plan is mailed to submit written comments to the responsible official.

##### 3. Conclusion of the Treaty Rights Protection Process

- a. The responsible official shall decide whether the proposed uses would affect or modify any treaty or other rights of any Indian tribe. The final decision shall integrate findings of fact that address any substantive comments, recommendations, or concerns expressed by Indian tribal governments. If the final decision contradicts the comments, recommendations, or concerns of Indian tribal governments, the responsible official must justify how it reached an opposing conclusion.

- b. The treaty rights protection process may conclude if the responsible official determines that the proposed uses would not affect or modify treaty or other rights of any Indian tribe. Uses that would affect or modify such rights shall be prohibited.
  - c. A finding by the responsible official that the proposed uses would not affect or modify treaty or other rights, or a failure of an Indian tribe to comment or consult on the proposed uses as provided in these guidelines, in no way shall be interpreted as a waiver by the Indian tribe of a claim that such uses adversely affect or modify treaty or other tribal rights.
- I. For new development and uses in the Special Management Area, the U.S. Forest Service shall determine effects on treaty rights and shall notify the responsible official of the determination.
- J. If new buildings or structures may detract from the use and enjoyment of established recreation sites on adjacent parcels, an appropriate buffer shall be established between the building/structure and the parcel.
- K. Section 8(o) of the National Scenic Act (16 USC 544f(o)) and the “Special Rules policies 1 and 2 of the Scenic Area Management Plan, plan II-86, are hereby incorporated by reference. In the event of a redesignation under these provisions by the U.S. Forest Service, Clark County shall administratively review development applications on impacted lands according to the redesignation and effective date specified by the U.S. Forest Service. Clark County may subsequently amend this chapter to bring associated comprehensive plan and zoning map designations into conformity with such redesignations.
- L. Docks
  - 1. New private docks and boathouses serving only one family and one property shall be limited to a maximum of 120 square feet in size.
  - 2. New private docks and boathouses serving more than one family and property shall be limited to a maximum of 200 square feet in size.
  - 3. Public docks open and available for public use shall be allowed.
- M. Emergency/Disaster Event. Actions taken in response to an emergency/disaster event (as defined in Section 40.240.060 are allowed in all GMA and SMA land use designations, subject to compliance with the appropriate scenic, cultural, natural and recreation resource guidelines, the notification requirements of Section 40.240.150, the Post Emergency Disaster Response; Development Review process and the following general requirements:
  - 1. Following emergency/disaster response actions, best management practices (BMPs to prevent sedimentation and provide erosion control shall be utilized whenever disaster response actions necessitate vegetation removal, excavation, and or grading. BMPs may include but are not limited to: use of straw bales, slash windrows, filter fabric fences, sandbags, straw cover, jut netting, etc.
  - 2. Structures or development installed or erected for a temporary use (e.g. sandbags, check dams, plastic sheeting, chain link fences, debris walls, etc.) shall be removed within one year following an emergency event. If it can be demonstrated that the continued use of these devices is necessary to protect life, property, public services or the environment, an extension of no more than two years may be granted.
  - 3. New exploration, development and production of mineral resources, used for commercial, private or public works projects shall not be conducted as an emergency /disaster response activity.
  - 4. No spoils resulting from grading or excavation activities shall be deliberately deposited into a wetland, strewn, pond, lake or riparian area as part of an emergency/disaster response action. The only exception is for the construction of a fire line during a wildfire, where avoiding the aquatic area or its buffer zone has been considered and determined to not be possible without further jeopardizing life or property.

#### **40.240.200 SIGNS**

- A. Signs may be allowed pursuant in all zoning districts in the General Management Area to the following provisions:
  - 1. Except for signs along public highways necessary for public safety, traffic control or road construction which are consistent with the Manual on Uniform Traffic Control Devices, the following signs are prohibited:

- a. Luminous signs or those with intermittent or flashing lights. These include neon signs, fluorescent signs, light displays and other signs which are internally illuminated, exclusive of seasonal holiday light displays.
    - b. New billboards.
    - c. Signs with moving elements.
    - d. Portable or wheeled signs, or signs on parked vehicles where the sign is the primary use of the vehicle.
  2. Any sign which does not conform with a provision of this section and has existed prior to adoption of the Management Plan shall be considered non-conforming and subject to the following:
    - a. Alteration of existing non-conforming signs shall comply with this section.
    - b. Any non-conforming sign used by a business must be brought into conformance concurrent with any expansion or change in use which requires a development permit.
  3. The following may be permitted without review, subject to consistency with Section 40.240.200(A)(1):
    - a. Ordinary repair and maintenance of signs.
    - b. Election signs. Removal shall be accomplished within 30 days of election day.
    - c. "For Sale" signs not greater than 12 square feet. Removal shall be accomplished within 30 days of close of sale.
    - d. Temporary construction site identification, public service company, safety or information signs not greater than 32 square feet. Exceptions may be granted for public highway signs necessary for public safety and consistent with the Manual on Uniform Traffic Control Devices. Removal shall be accomplished within 30 days of project completion.
    - e. Signs posted on private property warning the public against trespassing, danger from animals, the private nature of a road, driveway or premise, or signs prohibiting or otherwise controlling fishing or hunting, provided such signs are not greater than 6 square feet.
    - f. Temporary signs advertising civil, social, or political gatherings and activities not exceeding 12 square feet. Removal shall be accomplished within 30 days of the close of the event.
    - g. Signs posted by governmental jurisdictions giving notice to the public. Such signs shall be no larger than that required to convey the message intended.
    - h. Signs associated with the use of a building or buildings, if placed flat on the outside walls of buildings, not on roofs or marquees.
  4. All signs shall meet the following guidelines unless they conflict with the Manual on Uniform Traffic Control Devices for public safety, traffic control or highway construction signs. In such cases, the standards in the Manual on Uniform Traffic Control Devices shall supersede these guidelines.
    - a. The support structure shall be unobtrusive and have low visual impact.
    - b. Lettering colors with sufficient contrast to provide clear message communication shall be allowed. Colors of signs shall blend with their setting to the maximum extent practicable.
    - c. Backs of all signs shall be unobtrusive, non-reflective, and blend in with the setting.
    - d. Spot lighting of signs may be allowed where needed for night visibility. Backlighting is not permitted for signs.
  5. Business identification or facility entry signs located on the premises may be allowed, subject to Section 40.240.200(A)(4).
  6. Other signs not addressed or expressly prohibited by this rule may be permitted without review.
- B. Signs in the Special Management Area shall be allowed pursuant to the following provisions:
1. Prohibited Signs
    - a. Advertising billboards.
    - b. Signs that move or give the appearance of moving, except signs used for highway construction, warning or safety.
    - c. Portable or wheeled signs, or signs on parked vehicles where the sign is the primary use of the vehicle, except for signs used for highway construction, warning or safety.
  2. Pre-existing signs are allowed to continue provided no changes occur in size, structure, color, or message.
  3. Temporary signs shall be permitted without review when in compliance with Subsection (B)(6) below and the following:
    - a. One Political signs per parcel of road frontage. The sign shall be no greater than 12 square feet in area. Removal shall be accomplished within 30 days of election day.

- b. "For Sale" signs not greater than 12 square feet, removal shall be accomplished within 30 days of close of sale.
  - c. One temporary construction site identification sign which is not greater than 32 square feet. Removal shall be accomplished within 30 days of project completion.
  - d. Signs providing direction to and announcement of temporary garage/yard sales provided placement duration does not exceed three days and the signs are not greater than two square feet in area.
  - e. Temporary signs, not exceeding 12 square feet and placed no longer than 10 days in advance of the event, advertising civil, social, or political gatherings and activities. Removal must be accomplished within 30 days of the close of the event.
  - f. Temporary signs of public service companies indicating danger and/or service and safety information. Removal must be accomplished upon project completion.
4. New signs shall be allowed as specified in the applicable zoning district.
  5. No sign shall be erected or placed in such a manner that it may interfere with, be confused with, or obstruct the view of any traffic sign, signal, or device.
  6. All new signs shall meet the following guidelines, and be consistent with the Manual on Uniform Traffic Control Devices:
    - a. Signs shall be maintained in a neat clean and attractive condition.
    - b. The character and composition of sign materials shall be harmonious with the landscape and/or related to and compatible with the main structure upon which the sign is attached.
    - c. Signs shall be placed flat on the outside walls of buildings, not on roofs or marquees.
    - d. Signs shall be unobtrusive and have low contrast with the setting.
    - e. The visual impact of the support structure shall be minimized.
    - f. Outdoor sign lighting shall be used for purposes of illumination only, and shall not be designed for, or used as, an advertising display, except for road safety signs.
    - g. Backs of all signs shall be visually unobtrusive, non-reflective, and blend in with the setting.
    - h. Sign internal illumination or backlighting shall not be permitted except for highway construction, warning or safety.
  7. Public signs shall meet the following guidelines in addition to Subsections (B)(2) through (B)(6) above:
    - a. The Graphic Signing System provides design guidelines for public signs in and adjacent to public road rights-of-way. All new and replacement public signs shall conform to the guidelines in this system. Types of signs addressed include recreation site entry, route marker, interpretive, guide, directional, and urban area entry.
    - b. Signs located outside public road rights-of-way are encouraged to be designed in such a way as to be consistent with similar purpose signs described in the Graphic Signing System.
    - c. Signs posted by governmental jurisdictions giving notice to the public shall be no larger than that required to convey the intended message.
  8. Signs for public and commercial recreation facilities, home occupations, and commercial uses shall meet the following guidelines in addition to Subsections (B)(2) through (B)(6) above:
    - a. Signs posted on private property warning the public against trespassing, danger from animals, the private nature of a road, driveway or premise, or signs prohibiting or otherwise controlling fishing or hunting, provided such signs are not greater than two square feet.
    - b. Any sign advertising or relating to a business which is discontinued for a period of 30 consecutive days shall be presumed to be abandoned and shall be removed within 30 days thereafter, unless permitted otherwise by the jurisdictional authority.
    - c. Any signs relating to, or advertising, a business shall be brought into conformance with these sign guidelines prior to any expansion or change in use which is subject to review.
    - d. Off-site and on-site directional signs on approach roads to recreational facilities may be permitted. Name and interpretive signs may be permitted on-site, but should be kept to the minimum required to achieve the purpose(s) of the facilities.
    - e. Commercial recreation businesses approved in conjunction with a recreational facility may have a name sign not exceeding 16 square feet.
    - f. Recreation developments may have one on-premise name sign at each principal entrance. Such signs are encouraged to be of a low profile, monument type, and shall conform to the Graphic Signing System.

9. Sign clutter and other negative visual effects from excessive signs along all roads and highways, and at parking lots and recreation facilities, shall be reduced.
10. Directional and safety signs are allowed to the extent necessary to satisfy requirements for smooth traffic flow and public safety. All parties and jurisdictions placing such signs must do so in accordance with the Graphic Signing System, consistent with the standards in the Manual on Uniform Traffic Control Devices.

#### **40.240.210 AGRICULTURAL LAND DESIGNATIONS**

Sections 40.240.210 through 40.240.270 shall apply to those areas zoned Gorge Large-Scale or Small-Scale Agriculture, Gorge SMA-Agriculture, on the Scenic Area Land Use Designation Map.

#### **40.240.220 USES ALLOWED OUTRIGHT-AGRICULTURAL LAND**

- A. The following uses are allowed on lands designated Gorge Large-Scale or Small-Scale Agriculture without review:
  1. Agricultural use, except new cultivation.
  2. Forest practices that do not violate conditions of approval for other approved uses.
  3. Repair, maintenance, and operation of existing structures, trails, roads, railroads and utility facilities.
  4. Buildings less than 60 square feet in floor area and not exceeding 18 feet in height measured at the roof peak, which are accessory to a dwelling.
- B. The following uses are allowed on land zoned Gorge SMA-Agriculture without review:
  1. New agricultural uses and open space uses, except where there would be potential impact to cultural or natural resources.
  2. Maintenance, repair and operation of existing dwellings, structures, agricultural buildings, trails, roads, railroads, and utility facilities.
  3. Accessory structures less than 60 square feet in area and less than 18 feet in height measured at the roof peak.

#### **40.240.230 REVIEW USES-AGRICULTURAL LAND**

- A. The following uses may be allowed on lands zoned Gorge Large-Scale or Small-Scale Agriculture subject to compliance with the scenic, cultural, natural, and recreation resource guidelines (Sections 40.240.490 through 40.240.590):
  1. New cultivation, subject to compliance with Sections 40.240.510 through 40.240.560.
  2. Agricultural buildings in conjunction with agricultural use.
  3. Buildings greater than 60 square feet in area and/or 18 feet in height as measured at the roof peak, which are accessory to a dwelling.
  4. The temporary use of a mobile home in the case of a family hardship, subject to Section 40.240.190(D).
  5. On lands zoned Gorge Large-Scale Agriculture, a single-family dwelling in conjunction with agricultural use, upon a demonstration that all of the following conditions exist:
    - a. The subject farm or ranch (including all of its constituent parcels, contiguous or otherwise) has no other dwellings that are vacant or currently occupied by persons not directly engaged in farming or working on the subject farm or ranch and that could be used as the principal agricultural dwelling; and
    - b. The farm or ranch upon which the dwelling will be located is currently devoted to agricultural use, where the day-to-day activities of one or more residents of the agricultural dwelling will be principally directed to the agricultural use of the land. Current use includes a minimum area which would satisfy Section 40.240.230(A)(5)(c)(4) below; and
    - c. The farm or ranch is a commercial agricultural enterprise as determined by an evaluation of the following factors:
      - (1) Size of the entire farm or ranch, including all land in the same ownership;
      - (2) Type(s) of agricultural uses (crops, livestock) and acreage;
      - (3) Operational requirements for the particular agricultural use that are common to other agricultural operations in the area; and

- (4) Income capability. The farm or ranch, and all its constituent parcels, is capable of producing at least \$40,000 in gross annual income. This determination shall be made using the following formula:

$$(A)(B)(C) = I \quad \text{where}$$

- A = Average yield of the commodity per acre, or unit of production  
B = Average price of the commodity  
C = Total acres suitable for production, or total units of production that can be sustained, on the subject farm or ranch  
I = Income Capability

6. On lands zoned Gorge Large-Scale Agriculture, a second single-family dwelling in conjunction with agricultural use when the dwelling would replace an existing dwelling which is included in, or is eligible for inclusion in, the National Register of Historic Places, in accordance with the criteria for use in evaluating the eligibility of cultural resources contained in the National Register Criteria for Evaluation (36 CFR 60.4).
7. On lands zoned Gorge Small-Scale Agriculture, a single-family dwelling on any legally existing parcel.
8. On lands zoned Gorge Large-Scale Agriculture, a single-family dwelling for an agricultural operators relative provided that all of the following conditions exist:
  - a. The dwelling would be occupied by a relative of the agricultural operator or of the agricultural operator's spouse who will be actively engaged in the management of the farm or ranch. Relative means grandparent, grandchild, parent, child, brother or sister;
  - b. The dwelling would be located on the same parcel as the dwelling of the principal operator; and
  - c. The operation is a commercial enterprise as determined by Section 40.240.230(A)(5)(c).
9. Construction, reconstruction or modifications of roads not in conjunction agriculture.
10. Uses to conserve soil, air and water quality and to provide for wildlife and fisheries resources.
11. Structures associated with hunting and fishing operations.
12. Towers and fire stations for forest fire protection.
13. Agricultural labor housing upon a showing that:
  - a. The proposed housing is necessary and accessory to a current agricultural use;
  - b. The housing shall be seasonal unless it is shown that an additional full-time dwelling is necessary to the current agricultural use of the subject farm or ranch unit. Seasonal use shall not exceed 9 months; and
  - c. The housing will be located to minimize the conversion of lands capable of production of farm crops or livestock and shall not force a significant change in or significantly increase the cost of accepted agricultural practices employed on nearby lands devoted to agricultural use.
14. On lands designated Gorge Large-Scale Agriculture, on a parcel which was legally created and existed prior to November 17, 1986, a single-family dwelling not in conjunction with agricultural use upon a demonstration that all of the following conditions exist:
  - a. The dwelling will not force a change in or increase the cost of accepted agricultural practices on surrounding lands;
  - b. The subject parcel is predominantly unsuitable for the production of farm crops and livestock, considering soils, terrain, location and size of the parcel. Size alone shall not be used to determine whether a parcel is unsuitable for agricultural use. An analysis of suitability shall include the capability of the subject parcel to be utilized in conjunction with other agricultural operations in the area;
  - c. The dwelling shall be set back from any abutting parcel designated Gorge Large-Scale, or Small-Scale Agriculture, as required in Section 40.240.190(B) or any abutting parcels zoned Gorge Large or Small Woodland, as required in Section 40.240.190(C).
  - d. A declaration has been signed by the landowner and recorded into county deeds and records specifying that the owners, successors, heirs and assigns of the subject property are aware that adjacent and nearby operators are entitled to carry on accepted agriculture or forest practices on lands zoned Gorge Large-Scale or Small-Scale Agriculture, or Gorge Small Woodland; and

- e. All owners of land in areas zoned Gorge Large-Scale or Small-Scale Agriculture, or Gorge Small Woodland within 500 feet of the perimeter of the subject parcel on which the dwelling is proposed to be located have been notified and given at least 10 days to comment prior to a decision.
  15. Life estates, pursuant to Section 40.240.250.
  16. Land divisions, subject to Section 40.240.190(A)(2).
  17. Placement of structures necessary for continued public safety and the protection of private property and essential public services damaged during an emergency/disaster event. This includes the replacement of temporary structures erected during such events with permanent structures performing an identical or related function. Land use proposals shall be submitted within 12 months following an emergency/disaster event.
- B. The following uses may be allowed on lands zoned Gorge SMA-Agriculture, subject to compliance with the appropriate scenic, cultural, natural and recreation resource guidelines (Sections 40.240.490 through 40.240.590). The use or development shall be sited to minimize the loss of land suitable for the production of agricultural crops or livestock:
1. Forest uses and practices as allowed in Section 40.240.300(B)(2).
  2. A single-family dwelling necessary for and accessory to agricultural use upon a demonstration that all of the following conditions exist:
    - a. The proposed dwelling would be the only dwelling on the subject farm or ranch, including contiguous lots/parcels.
    - b. The farm or ranch upon which the dwelling will be located is currently devoted to agricultural use, where the day-to-day activities of one or more residents of the dwelling will be principally directed to the agricultural use of the land. The farm or ranch must currently satisfy guideline (c)(4) below.
    - c. The farm or ranch is a commercial agricultural enterprise as determined by an evaluation of the following criteria:
      - (1) Size of the entire farm or ranch, including all land in the same ownership.
      - (2) Type(s) of agricultural uses (crops, livestock, orchard, etc.) and acreage.
      - (3) Operational requirements for the particular agricultural use that are common to other agricultural operations in the area.
      - (4) Income capability. The farm or ranch, and all its contiguous parcels, must be capable of producing at least \$40,000 in gross annual income. This determination can be made using the following formula with periodic adjustments for inflation:
 
$$(A)(B)(C) = I \quad \text{where}$$

A = Average yield of the commodity per acre or unit of production  
B = Average price of the commodity  
C = Total acres suitable for production, or total units of production that can be sustained, on the subject farm or ranch  
I = Income capability
  - d. Minimum parcel size of 40 contiguous acres.
3. Accessory structures, greater than 60 square feet.
4. Farm labor housing and agricultural buildings upon a showing that the following
  - a. The proposed housing or building is necessary and accessory to a current agricultural use and a showing that the operation is a commercial agricultural enterprise as determined by Section 40.240.230(B)(2)(c).
  - b. The housing or building shall be seasonal unless it is shown that an additional full-time dwelling is necessary for the current agricultural use. Seasonal use shall not exceed nine months.
  - c. The housing or building shall be located to minimum the conversion of lands capable of production of farm crops and livestock and shall not force a significant change in or significantly increase the cost of accepted agricultural uses employed on nearby lands devoted to agricultural use.
5. Home occupations pursuant to Section 40.240.190(E). The use or development be compatible with agricultural use. Buffer zones should be considered to protect agricultural practices from conflicting uses.



6. Bed and breakfast inns subject to Section 40.240.190(F). The use or development shall be compatible with agricultural use. Buffer zones should be considered to agricultural practices from conflicting uses.
7. Fruit stands and produce stands upon a showing that sales will be limited to products raised on the property and other agriculture properties in the local region
8. Aquaculture.
9. Exploration, development, and production of sand, gravel, and crushed as defined by Section 40.240.060, for the construction, maintenance, or reconstruct roads used to manage or harvest commercial forest products on lands with Special Management Area, subject Sections 40.250.020 and 40.240.490, and all applicable Federal, State and County standards.
10. Utility facilities necessary for public service upon a showing that:
  - a. There is no alternative location with less adverse effect on Agriculture lands.
  - b. The size is the minimum necessary to provide the service.
11. Temporary asphalt/batch plant operations related to public road projects, not to exceed six months.
12. Signs as specified in Section 40.240.200(B).
13. Community facilities and non-profit facilities related to agricultural resource management.
14. Expansion of existing non-profit group camps, retreats, and conference or education centers for the successful operation on the dedicated site. Expansion beyond the dedicated site is prohibited.
15. Recreation, interpretive and educational developments and uses consistent with Section 40.240.590.
16. Road and railroad construction and reconstruction.
17. Agricultural product processing and packaging, upon demonstration that the processing will be limited to products produced primarily on or adjacent to the property. "Primarily" means a clear majority of the product as measured by volume, weight, or value.
18. Structures and vegetation management activities for the purpose of wildlife, fisheries, or plant habitat enhancement projects.
19. Placement of structures necessary for continued public safety and the protection of private property and essential public services damaged during an emergency/disaster event. This includes the replacement of temporary structures erected during such events with permanent structures performing an identical or related function. Land use proposals shall be submitted within 12 months following an emergency/disaster event.

#### **40.240.240 REVIEW USES WITH ADDITIONAL APPROVAL CRITERIA, LARGE-SCALE OR SMALL-SCALE AGRICULTURE DESIGNATIONS**

The following uses may be allowed on lands zoned Gorge Large-Scale or Small-Scale Agriculture, subject to compliance with the appropriate scenic, cultural, natural, and recreation resource guidelines (Sections 40.240.490 through 40.240.590).

- A. Utility facilities and railroads necessary for public service upon a showing that:
  1. There is no practicable alternative location with less adverse effect on agricultural or forest lands, and
  2. The size is the minimum necessary to provide the service.
- B. Home occupations in existing residential or accessory structures, subject to Section 40.240.190(E).
- C. Fruit and produce stands, upon a showing that sales will be limited to agricultural products raised on the subject farm and other farms in the local region.
- D. Wineries, in conjunction with on-site viticulture, upon a showing that processing and sales of wine is from grapes grown on the subject farm or in the local region.
- E. Agricultural product processing and packaging, upon a showing that the processing will be limited to products grown primarily on the subject farm and sized to the subject operation.
- F. Exploration of mineral and geothermal resources subject to Section 40.240.490.

- G. Development and production of mineral and geothermal resources, as defined by Section 18.334.040, and subject to Section 40.240.490 and all other applicable Federal, State and County standards, including those of Section 40.250.020. Type IV review procedures specified under Section 40.510.040 shall be required.
- H. Personal-use airstrips including associated accessory structures such as a hangar. A personal-use airstrip is an airstrip restricted, except for aircraft emergencies, to use by the owner and on an infrequent and occasional basis, by invited guests, and by commercial aviation activities in connection with agricultural operations. No aircraft may be based on a personal use airstrip other than those owned or controlled by the owner of the airstrip.
- I. Agriculture.
- J. Recreation development, subject to Section 40.240.580 and the Recreation Development Plan (Management Plan, Part M, Chapter 1).
- K. Boarding of horses.
- L. Temporary portable asphalt/batch plants related to public road projects, not to exceed six months.
- M. Bed and breakfast inns in single-family dwellings, subject to Section 40.240.190(F) and provided that the residence:
  - 1. Is included in the National Register of Historic Places; or
  - 2. Is listed on the Washington State Register of Historic Places maintained by the Washington Office of Archaeology and Historic Preservation.
- N. Non-profit, environmental learning or research facilities.
- O. Expansion of existing schools or places of worship.

**40.240.250 APPROVAL CRITERIA FOR LIFE ESTATES - GORGE LARGE-SCALE OR SMALL-SCALE AGRICULTURE ZONES**

A landowner who sells or otherwise transfers real property on lands zoned Gorge Large-Scale or Small-Scale Agriculture may retain a life estate in a dwelling and a tract of land surrounding the dwelling. The life estate tract shall not be considered a parcel as defined in Section 40.240.060. A second dwelling in conjunction with agricultural use may be allowed, subject to compliance with guidelines in Sections 40.240.490 through 40.240.590 for the protection of scenic, cultural, natural, and recreation resources and upon findings that:

- A. The proposed dwelling is in conjunction with agricultural use, using guidelines from Section 40.240.230(A)(5).
- B. Upon termination of the life estate, the original or second dwelling shall be removed.

**40.240.260 APPROVAL CRITERIA FOR SPECIFIED REVIEW USES ON LANDS ZONED GORGE LARGE-SCALE OR SMALL-SCALE AGRICULTURE**

Uses identified in Section 40.240.240 may be allowed only if they meet both of the following criteria:

- A. The use is compatible with agricultural uses and would not force a change in or significantly increase the cost of accepted agricultural practices on nearby lands devoted to agricultural use; and
- B. The use will be sited to minimize the loss of land suitable for the production of crops or livestock.

#### **40.240.270        DIMENSIONAL STANDARDS**

The following dimensional standard provisions shall apply to lands zoned Gorge Large or Small-Scale Agriculture, or Gorge SMA Agriculture unless otherwise noted herein. In the event of conflict between other Title 40 chapters and this chapter, the provisions of this chapter shall prevail.

- A. All new land divisions shall comply with Section 40.240.190(A)(2) and all applicable County regulations. Newly created lots shall comply with the following minimum lot size requirements:
  - 1. Gorge Large-Scale Agriculture 80 (GLSA-80), 80 acres.
  - 2. Gorge Large-Scale Agriculture 40 (GLSA-40), 40 acres.
  - 3. Gorge Small-Scale Agriculture (GSA), 20 acres.
  - 4. Gorge SMA Agriculture (GSA) 40 acres. New land division shall be permitted in the SMA only when the creation of new parcels facilitates Federal acquisition of lands to achieve the policies of the overall Management Plan.
- B. Minimum lot width of 660 feet for newly created lots.
- C. No minimum lot depth requirement.
- D. Minimum front setback of 50 feet for all buildings from public road right-of-way or private road easement.
- E. Minimum side setback of 200 feet for all residential buildings, 25 feet for non residential buildings.
- F. Minimum street side setback of 25 feet for all buildings.
- G. Minimum rear setback of 200 feet for all residential buildings, 25 feet for non residential buildings.
- H. Setbacks shall also comply with provisions of Sections 40.240.190(B) and (G).
- I. Maximum height restriction of 35 feet for residential structures, unless superceded by Scenic Review Criteria of Section 40.240.490 or Section 40.240.500.
- J. Where larger setbacks are not required by Section 40.240.190(B), parcels which are non-conforming as to minimum lot size or width and depth requirements may observe building setbacks of 50 feet from all property lines except side setbacks adjacent to streets, which may observe building setbacks of 25 feet.

#### **40.240.280        FOREST LAND DESIGNATIONS**

Sections 40.240.190(C) and 40.240.280 through 40.240.340 shall apply to those areas zoned Gorge Small Woodland and SMA-Forest.

#### **40.240.290        USES ALLOWED OUTRIGHT - FOREST LAND**

- A. The following uses are allowed on lands zoned Gorge Small Woodland without review:
  - 1. Forest practices that do not violate conditions of approval for other approved uses.
  - 2. Agricultural use, except new cultivation.
  - 3. Repair, maintenance, and operation of existing structures, trails, roads, railroads and utility facilities.
  - 4. Buildings less than 60 square feet in floor area and not exceeding 18 feet in height measured at the roof peak, which are accessory to a dwelling.
- B. The following uses are allowed on land designated SMA-Forest without review:
  - 1. New agricultural uses as allowed in Section 40.240.220(B), and open space uses, except where there would be potential impact to cultural or natural resources.
  - 2. Maintenance, repair, and operation of existing dwellings, signs, structures, trails, roads, railroads, and utility facilities.

3. Accessory structures of less than 60 square feet in area and less than 18 feet in height measured at the roof peak.

#### **40.240.300 REVIEW USES - FOREST LAND**

- A. The following uses may be allowed on lands zoned Gorge Small Woodland subject to compliance with the appropriate scenic, cultural, natural, and recreation resources guidelines (Sections 40.240.490 through 40.240.590):
  1. On lands designated Gorge Small Woodland, one single-family dwelling on a legally created parcel upon the parcels enrollment in the state's forest assessment program. Upon a showing that a parcel cannot qualify, a parcel is entitled to one single-family dwelling. In either case, the location of a dwelling shall comply with Sections 40.240.190(C) and 40.240.330. A declaration shall be signed by the landowner and recorded into county deeds and records specifying that the owners, successors, heirs and assigns of the subject parcel are aware that adjacent and nearby operators are entitled to carry on accepted farm or forest practices on lands designated gorge Small Woodland, or Gorge Large-Scale or Small-Scale Agriculture.
  2. One single-family dwelling if shown to be in conjunction with and substantially contribute to the current agricultural use of a farm pursuant to Section 40.240.230(A)(5). The siting of the dwelling shall comply with Section 40.240.330.
  3. Temporary on-site structures which are auxiliary to and used during the term of a particular forest operation. "Auxiliary" means a use or alteration of a structure or land which provides help or is directly associated with the conduct of a particular forest practice. An auxiliary structure shall be located on-site, temporary in nature, and not designed to remain for the forests entire growth cycle from planting to harvesting. An auxiliary use is removed when the particular forest practice for which it was approved has concluded.
  4. Temporary portable facilities for the primary processing of forest products grown on a parcel or contiguous parcels in the same ownership where the facility is to be located. The facility shall be removed upon completion of the harvest operation.
  5. Uses to conserve soil, air and water quality and to provide for wildlife and fisheries resources.
  6. Structures associated with hunting and fishing operations.
  7. Towers and fire stations for forest fire protection.
  8. New agricultural structures subject to Section 40.240.330.
  9. The temporary use of a mobile home in the case of a family hardship, subject to Sections 40.240.190(C) and (D), and Section 40.240.330.
  10. Accessory building(s) greater than 60 square feet in floor area and/or exceeding 18 feet in height as measured at the roof peak; subject to Sections 40.240.190(C), and 40.240.330.
  11. A second single-family dwelling for a farm operator's relative, subject to Sections 40.240.190(C), 40.240.230(A)(8) and 40.240.330.
  12. Private roads serving a residence, subject to Sections 40.240.190(C) and 40.240.330.
  13. Recreation development, subject to Section 40.240.580 and the Recreation Development Plan (Management Plan, Part III, Chapter 1).
  14. Construction or reconstruction of roads or modifications not in conjunction with forest use or practices.
  15. Agricultural labor housing upon a showing that:
    - a. The proposed housing is necessary and accessory to a current agricultural use.
    - b. The housing shall be seasonal unless it is shown that an additional full-time dwelling is necessary to the current agricultural use of the subject agricultural unit. Seasonal use shall not exceed nine months.
    - c. The housing shall be located to minimize the conversion of lands capable of production of farm crops and livestock and will not force a significant change in or significantly increase the cost of accepted agricultural practices employed on nearby lands devoted to agricultural use.
  16. New cultivation, subject to compliance with Sections 40.240.510, and 40.240.530 through 40.240.560.
  17. Life Estates on lands Gorge Small Woodland, pursuant to Section 40.240.340.
  18. Land divisions, subject to Section 40.240.190(A)(2).
  19. Placement of structures necessary for continued public safety and the protection of private property and essential public services damaged during an emergency/disaster event. This includes the replacement of temporary structures erected during such events with permanent structures performing an identical or

related function. Land use proposals shall be submitted within 12 months following an emergency/disaster event.

- B. The following uses may be allowed on lands zoned Gorge SMA Federal or Non-Federal Forest subject to compliance with the appropriate scenic, cultural, natural, and recreation resources guidelines (Sections 40.240.590 through 40.240.590). The use or development will be sited to minimize the loss of land suitable for the production of forest products:
1. Any use listed in Section 40.240.230(B).
  2. Forest practices in accordance with a site plan for forest practices approved by the Washington Department of Natural Resources, or other designated forest practices review agency, including the following:
    - a. The following information, in addition to the site plan requirements of Section 40.240.100, shall be included on the site plan:
      - (1) Boundary of proposed commercial forest practice.
      - (2) Location of proposed rock or aggregate sources.
      - (3) Timber types.
      - (4) Harvest units.
      - (5) Silvicultural prescriptions.
      - (6) Road and structure construction and/or reconstruction design.
      - (7) Major skid trails, landings, and yarding corridors.
      - (8) Commercial firewood cutting areas.
      - (9) Existing and proposed rock pit development plans.
      - (10) Protection measures for scenic, cultural, natural, and recreation.
      - (11) Resources, such as road closures.
    - b. A discussion of slash disposal methods.
    - c. A reforestation plan as reviewed by the appropriate state forest practices agency.
  3. Railroad and road construction or reconstruction.
  4. Exploration, development, and production of sand, gravel, or crushed rock, as defined in Section 40.240.060, for the construction, maintenance, or reconstruction of roads used to manage or harvest commercial forest products in the Special Management Area, subject Sections 40.240.490 and 40.250.020, and all other applicable Federal, State and County standards.
  5. Silvicultural nurseries.
  6. Utility facilities for public service upon a finding that:
    - a. There is no alternative location with less adverse effect on Forest Land, and
    - b. The size is the minimum necessary to provide the service.
  7. Structures or vegetation management activities for the purpose of wildlife, fisheries, or plant habitat enhancement projects.
  8. Fish hatcheries and agricultural facilities.
  9. Public recreation, commercial recreation, interpretive and educational developments and uses consistent with Section 40.240.590.
  10. One dwelling on a parcel of 40 contiguous acres or larger if an approved Forest Management Plan demonstrates that such dwelling is necessary for and accessory to forest uses. The Forest Management Plan shall demonstrate the following:
    - a. The dwelling will contribute substantially to the growing, propagation, and harvesting of trees. The principal purpose for allowing a dwelling on forest lands is to enable the resident to conduct efficient and effective management. This requirement shall indicate a relationship between ongoing forest management and the need for dwelling on the subject property.
    - b. The subject parcel has been enrolled in the states forest assessment program.
    - c. A plan for management of the parcel has been approved by the Washington Department of Natural Resources and the responsible official. The plan must indicate the condition and productivity of lands to be managed; the operations the owner will carry out (thinning, harvest, planting, etc.); a chronological description of when the operations will occur, estimates of yield, labor, and expenses; and how the dwelling will contribute towards the successful management of the property.
    - d. There are no other dwellings on the parcel that are vacant or currently occupied by persons not engaged in forest management of the subject parcel.
    - e. The dwelling complies with all applicable building code and fire protection guidelines.

- f. A declaration has been signed by the landowner and recorded into county deeds and records specifying that the owners, successors, heirs, and assigns of the subject property are aware that adjacent and nearby operations are entitled to carry on accepted agricultural or forest practices.
- 11. Accessory structures over 60 square feet.
- 12. Home occupations pursuant to Section 40.240.190(E).
- 13. Temporary portable facility for the processing of forest products.
- 14. Towers and fire stations for forest fire protection.
- 15. Community facilities and nonprofit facilities related to forest resource management.
- 16. Expansion of existing nonprofit group camps, retreats, or conference or education centers, necessary for the successful operation of the facility on the dedicated site. Expansion beyond the dedicated site shall be prohibited.
- 17. Signs as specified in Section 40.240.200(B).
- 18. Placement of structures necessary for continued public safety and the protection of private property and essential public services damaged during an emergency/disaster event. This includes the replacement of temporary structures erected during such events with permanent structures performing an identical or related function. Land use proposals shall be submitted within 12 months following an emergency/disaster event.

#### **40.240.310 REVIEW USES WITH ADDITIONAL APPROVAL CRITERIA FOR GORGE SMALL WOODLAND DESIGNATIONS**

The following uses may be allowed on lands designated Gorge Small Woodland, subject to compliance with the appropriate scenic, cultural, natural, or recreation resources guidelines (Sections 40.240.490 through 40.240.590):

- A. Utility facilities and railroads necessary for public service upon a showing that (a) there is no practicable alternative location with less adverse effect on agricultural and forest lands and on scenic, cultural, natural and recreation resources and (b) the size is the minimum necessary to provide the service.
- B. Home occupations in an existing residence or accessory structure, subject to the guidelines in Section 40.240.190(E).
- C. Fruit and produce stands, upon a showing that sales will be limited to agricultural products raised on the subject farm and other farms in the local region.
- D. Wineries, in conjunction with onsite viticulture, upon a showing that processing and sales of wine is from grapes grown on the subject farm or in the local region.
- E. Agricultural product processing and packaging, upon a showing that the processing will be limited to products grown primarily on the subject farm and sized to the subject operation.
- F. Exploration of mineral and geothermal resources, subject to Sections 40.240.490 through 40.240.590.
- G. Development, and production of mineral and geothermal resources, as defined by Section 40.240.060, subject to Section 40.240.490 and all other applicable Federal, State and County standards, including those of Section 40.250.020. Type III review procedures specified under Section 40.510.030 shall be required.
- H. Agriculture.
- I. Boarding of horses.
- J. Temporary portable asphalt/batch plants related to public road projects, not to exceed 6 months.
- K. Expansion of existing nonprofit group camps, retreats, or conference centers.

- L. Bed and breakfast inns in single-family dwellings, subject to Section 40.240.190(F) and provided that the residence:
  - 1. Is included in the National Register of Historic Places, or
  - 2. Is listed on the Washington State Register of Historic Places maintained by the Washington Office of Archaeology and Historic Preservation, or
- M. Nonprofit, environmental learning or research facilities.

**40.240.320 APPROVAL CRITERIA FOR SPECIFIED REVIEW USES ON LANDS ZONED GORGE SMALL WOODLAND**

Uses identified in Section 40.240.310 may be allowed only if they meet the following criteria:

- A. The owners of land designated Gorge Small Woodland, or Gorge Large-Scale or Small-Scale Agriculture that lies within 500 feet of the perimeter of the subject parcel have been notified of the land use application and have been given at least 10 days to comment prior to a final decision;
- B. The use will not interfere seriously with accepted forest or agricultural practices on nearby lands devoted to resource use;
- C. The use will be sited in a way that minimizes the loss of forest or agricultural land and minimizes the chance of interference with accepted forest or agricultural practices on nearby lands; and
- D. The use will not significantly increase fire hazard, fire suppression costs or risks to fire suppression personnel and will comply with Section 40.240.330.

**40.240.330 APPROVAL CRITERIA FOR FIRE PROTECTION IN FOREST DESIGNATIONS**

All uses, as specified, shall comply with the following fire safety guidelines:

- A. All buildings shall be surrounded by a maintained fuel break of 50 feet. Hazardous fuels shall be removed within the fuel break area. Irrigated or fire resistant vegetation may be planted within the fuel break. This could include green lawns and low shrubs (less than 24 inches in height). Trees should be spaced greater than 15 feet between the crowns and pruned to remove dead and low (less than 8 feet) branches. Accumulated leaves, needles, and other dead vegetation shall be removed from beneath trees.
- B. Buildings with plumbed water systems shall install at least one standpipe a minimum of 50 feet from the structure(s).
- C. A pond, stream, tank or sump with storage of not less than 1,000 gallons, or a well or water system capable of delivering 20 gallons per minute shall be provided. If a well pump is located on-site, the electrical service shall be separate from the dwelling.
- D. Access drives shall be constructed to a minimum of 12 feet in width and not exceed a grade of 12 percent. Turnouts shall be provided at a minimum of every 500 feet. Access drives shall be maintained to a level that is passable to fire equipment. Variances to road guidelines may be made only after consultation with the Director of Public Works, local rural fire district, and the Washington Department of Natural Resources.
- E. Within one year of the occupancy of a dwelling, the responsible official shall conduct a review of the development to assure compliance with these guidelines.
- F. Telephone and power supply systems shall be underground whenever possible.
- G. Roofs of structures should be constructed of fire-resistant materials such as fiberglass shingle or tile. Roof materials such as cedar shake and shingle should not be used.

- H. Any chimney or stovepipe on any structure for use with a woodstove or fireplace should be screened with no coarser than 1/4 inch mesh metal screen that is noncombustible and corrosion resistant and should be equipped with a spark arrestor.
- I. All structural projections such as balconies, decks and roof gables should be built with fire resistant materials equivalent to that specified in the Uniform Building Code.
- J. Attic openings, soft vents, foundation louvers or other ventilation openings on dwellings and accessory structures should be screened with no coarser than 1/4 inch mesh metal screen that is noncombustible and corrosion resistant.
- K. Proposed uses shall comply with all applicable provisions of CCC Title 15 Fire Prevention, including Chapter 15.13, Wildlife Urban Interface/Intermix Ordinance, and Chapter 14.04, Building Code. Section 40.240.330 requirements shall prevail in the event of conflict with these County Codes.

#### **40.240.340 APPROVAL CRITERIA FOR LIFE ESTATES IN GORGE SMALL WOODLAND**

A landowner who sells or otherwise transfers real property on lands zoned Gorge Small Woodland may retain a life estate in a dwelling and a tract of land surrounding the dwelling. The life estate tract shall not be considered a parcel. A second dwelling unit on lands designated Gorge Small Woodland may be allowed, subject to compliance with the guidelines in Sections 40.240.490 through 40.240.590 for the protection of scenic, cultural, natural, and recreation resources and upon findings that:

- A. The proposed dwelling is in conjunction with agricultural use, using Section 40.240.230(A)(5).
- B. On lands designated Gorge Small Woodland, the proposed dwelling complies with Section 40.240.300(A)(1).
- C. Upon termination of the life estate, the original or second dwelling shall be removed.

#### **40.240.350 DIMENSIONAL STANDARDS**

The following dimensional standard provisions shall apply to lands designated Gorge Small Woodland, Gorge SMA Federal Forest or Non-Federal Forest unless otherwise noted herein. In the event of conflict between other Title 40 chapters and this chapter, the provisions of this chapter shall prevail.

- A. All new land divisions shall comply with Section 40.240.190(A)(2) and applicable County regulations. Newly created lots shall comply with the following minimum lot size requirements:
  - 1. Gorge Small Woodland 40 (GSW-40), 40 acres.
  - 2. Gorge Small Woodland 20 (GSW-20), 20 acres.
  - 3. Gorge SMA Forest, Federal and Non-Federal (GSFF, GSNFF), 40 acres. New land division shall be permitted in the SMA only when the creation of new parcels facilitates Federal acquisition of lands to achieve the policies of the overall Management Plan.
- B. Minimum lot width of 660 feet for newly created lots,
- C. No minimum lot depth requirement,
- D. Minimum front setback of 50 feet for all buildings from public road right-of-way or private road easement.
- E. Minimum side setback of 200 feet for all residential buildings, 25 feet for non residential buildings.
- F. Minimum street side setback of 25 feet for all buildings.
- G. Minimum rear setback of 200 feet for all residential buildings, 25 feet for non residential buildings.



- H. Setbacks shall also comply with Sections 40.240.190(B) and (G).
- I. Medium height restriction of 35 feet for residential structures, unless superceded by Scenic Review Criteria of Section 40.240.490 or 40.240.500.

#### **40.240.360 OPEN SPACE DESIGNATIONS**

Sections 40.240.360 through 40.240.380 shall apply to those areas zoned Gorge Open Space and Gorge SMA-Open Space on the Scenic Area Land Use Designation Map.

#### **40.240.370 USES ALLOWED OUTRIGHT - OPEN SPACE**

The following uses may be allowed on lands zoned Gorge Open Space without review:

- A. Operation of existing structures, trails, roads, railroads, utility facilities, and hydroelectric facilities.
- B. Emergency repair and maintenance of existing structures, trails, roads, railroads, utility facilities, and hydroelectric facilities including removal of fallen timber, rock, or other materials from road surfaces, railroad lines, and utility structures.
- C. Non-emergency repair and maintenance of existing structures, trails, roads, railroads, utility facilities, and hydroelectric facilities provided that:
  - 1. Ground disturbing activities only occur on sites that have been previously disturbed by human activities and do not exceed the depth and extent of existing ground disturbance;
  - 2. Clearing of vegetation, including tree removal, only occurs on sites that have been regularly cleared for maintaining utility facilities.

#### **40.240.380 REVIEW USES - OPEN SPACE**

- A. The following uses may be allowed on all lands zoned Gorge Open Space subject to compliance with the appropriate scenic, cultural, natural, and recreation resources guidelines (Sections 40.240.490 through 40.240.590):
  - 1. Low intensity recreation, subject to Section 40.240.580(B).
  - 2. Land divisions to facilitate efforts to protect and enhance scenic, cultural, natural or recreation resources. Such land divisions shall be subject to Section 40.240.190(A)(2). There shall be no minimum size requirement for newly created lots.
  - 3. Repair, maintenance, operation and improvement of existing structures, trails, roads, railroads, utility facilities and hydroelectric facilities.
  - 4. Removal of timber, rocks or other materials for purposes of public safety and placement of structures for public safety.
  - 5. Restoration and enhancement structures and/or activities including vegetation, scenic, cultural, soil, fish and wildlife habitat restoration and enhancements.
  - 6. Placement of structures necessary for continued public safety and the protection of private property and essential public services damaged during an emergency/disaster event. This includes the replacement of temporary structures erected during such events with permanent structures performing an identical or related function. Land use proposals shall be submitted within 12 months following an emergency/disaster event.
- B. The following uses may be allowed on lands designated Gorge Open Space within publicly owned lands:
  - 1. All uses listed in Section 40.240.380(A).
  - 2. Fish and wildlife management uses conducted by federal, state or tribal resource agencies.
  - 3. Soil, water or vegetation uses performed in accordance with a conservation plan approved by a local conservation district.

4. Harvesting of wild crops, with written approval of from the public agency owning or operating the land.
  5. Educational or scientific research.
- C. On land zoned Gorge SMA-Open Space, the maintenance, repair, and operation of existing dwellings, structures, trails, roads, railroads, and utility facilities may occur without review.
- D. The following uses may be allowed on lands zoned Gorge SMA-Open Space, subject to compliance with the appropriate scenic, cultural, natural and recreation resources guidelines (Sections 40.240.490 through 40.240.590) and when consistent with an open space plan approved by the U.S. Forest Service pursuant to guideline (E) below:
1. Changes in existing uses including reconstruction, replacement, and expansion of existing structures and transportation facilities, except for commercial forest practices.
  2. Structures or vegetation management activities, including scientific research, related to scenic, cultural, recreational, and natural resource enhancement projects.
  3. Low intensity recreation uses, including educational and interpretive facilities, consistent with Section 40.240.590.
  4. Utility facilities for public service upon a showing that:
    - a. There is no alternative location with less adverse effect on Open Space land.
    - b. The size is the minimum necessary to provide the service.
  5. New signs, pursuant to Section 40.240.200.
  6. Restoration and enhancement structures and/or activities including vegetation, scenic, cultural, soil, fish and wildlife habitat restoration and enhancements.
- E. An Open Space plan shall be completed by the primary managing agency or landowner prior to any new land uses or development, and shall be reviewed by the Forest Service. The Open Space plan shall include the following:
1. Direction for resource protection, enhancement, and management.
  2. Review of existing uses to determine compatibility with Open Space values.
  3. Consultation with members of the public and with agency and resource specialists.
- F. Subject to review, treatment of noxious weeds shall be permitted without completion of an Open Space Plan, provided the following criteria are met:
1. The infestation of noxious weeds is recent and eradication is possible; and
  2. Delaying or deferring treatment could widespread or significant adverse impacts to one or more of the following resources:
    - a. Displacement of native and traditionally gathered plants; or
    - b. Degradation of wildlife habitat and forage; or
    - c. Degradation or loss of agricultural uses of land, such as cropland or livestock forage; or
    - d. Limitation of recreational uses; or
    - e. For federal lands, treatment effects have been thoroughly evaluated in an environmental assessment.

#### **40.240.390 RESIDENTIAL LAND DESIGNATIONS**

Sections 40.240.390 through 40.240.430 shall apply to those areas designated Gorge Residential on the Scenic Area Land Use Designation Map.

#### **40.240.400 USES ALLOWED OUTRIGHT - RESIDENTIAL LAND**

The following uses are allowed on lands in the General Management Area designated Residential without review:

- A. Agricultural use, except new cultivation.
- B. Forest practices that do not violate conditions of approval for other approved uses.
- C. Repair, maintenance and operation of existing structures, trails, roads, railroads and utility facilities.

- D. Buildings less than 60 square feet in area and not exceeding 18 feet in height measured at the roof peak, which are accessory to a dwelling.

#### **40.240.410 REVIEW USES - RESIDENTIAL LAND**

The following uses may be allowed on lands in the General Management Area zoned Gorge Residential, subject to compliance with the scenic, cultural, natural and recreation resources guidelines (Sections 40.240.490 through 40.240.590):

- A. One single-family dwelling per legally created parcel.
  - 1. If the subject parcel is located adjacent to lands zoned Gorge Large-Scale or Small-Scale Agriculture the use shall comply with the buffer and notification requirements of Section 40.240.190(B), and the notification requirements of Section 40.240.230(A)(14(e); and
  - 2. If the subject parcel is located adjacent to lands zoned Gorge Small Woodland, the use shall comply with the buffer and notification requirements of Section 40.240.190(C), and the notification requirements of Section 40.240.320(A), and the placement of a dwelling shall also comply with Section 40.240.330.
- B. Buildings exceeding 60 square feet in area and/or 18 feet in height as measured at the roof peak, which are accessory to a dwelling.
- C. The temporary use of a mobile home in the case of a family hardship, subject to Section 40.240.190(D).
- D. Construction or reconstruction of roads.
- E. New cultivation, subject to compliance with Sections 40.240.510 and 40.240.530 through 40.240.560.
- F. Land divisions, subject to Section 40.240.190(A)(2).
- G. New agricultural structures.
- H. Placement of structures necessary for continued public safety and the protection of private property and essential public services damaged during an emergency/disaster event. This includes the replacement of temporary structures erected during such events with permanent structures performing an identical or related function. Land use proposals shall be submitted within 12 months following an emergency/disaster event.

#### **40.240.420 REVIEW USES WITH ADDITIONAL APPROVAL CRITERIA – RESIDENTIAL LAND**

The following uses may be allowed on lands in the General Management Area zoned Gorge Residential subject to compliance with the appropriate scenic, cultural, natural, and recreation resources guidelines (Sections 40.240.490 through 40.240.590):

- A. Accredited child care centers on land designated 5-acre Residential. A child care center may be allowed in Residential zones within an existing church or community building.
- B. Schools within an existing church or community building.
- C. Utility facilities and railroads.
- D. Home occupations pursuant to Section 40.240.190(E).
- E. Fire stations.
- F. Recreation development, subject to compliance with Section 40.240.580.

- G. Community parks and playgrounds, consistent with the guidelines of the National Park and Recreation Society regarding the need for such facilities.
- H. Bed and breakfast inns in single-family dwellings located on lands designated Residential pursuant to Section 40.240.190(F).

#### **40.240.430      APPROVAL CRITERIA FOR SPECIFIED REVIEW USES ON LANDS ZONED RESIDENTIAL**

The uses identified in Section 40.240.420 may be allowed only if they meet all of the following:

- A. The proposed use will be compatible with the surrounding area. Review of compatibility shall include impacts associated with the visual character of the area, traffic generation, and noise, dust and odors.
- B. The proposed use will not require public services other than those existing or approved for the area.
- C. If the subject parcel is located within 500 feet of lands zoned Gorge Large-Scale or Small-Scale Agriculture, Gorge Small Woodland, new buildings associated with the proposed use shall comply with Section 40.240.190(B).
- D. If the subject parcel is located within 500 feet of lands designated Gorge Small Woodland, new buildings associated with the proposed use shall comply with Section 40.240.330.

#### **40.240.440      DIMENSIONAL STANDARDS**

The following dimensional standard provisions shall apply to lands zoned Gorge Residential unless otherwise noted herein. In the event of conflict between other Title 40 chapters and this chapter, the provisions of this chapter shall prevail.

- A. All new land divisions shall comply with Section 40.240.190(A)(2) and applicable County regulations. Newly created lots shall comply with the following minimum lot size requirements:
  - 1. Gorge Residential 5 (GR-5), 5 acres,
  - 2. Gorge Residential 10 (GR-10), 10 acres.
- B. Minimum lot width of 140 feet for newly created lots, unless required otherwise by the Clark County Fire Marshal.
- C. No minimum lot depth requirement.
- D. Minimum front setback of 50 feet for all buildings from public road right-of-way or private road easement.
- E. Minimum side setback of 20 feet for all residential and accessory buildings, 50 feet for buildings used for agricultural purposes.
- F. Minimum rear setback of 20 feet for all buildings.
- G. Setbacks shall also comply with provisions of Sections 40.240.190(B) and (G).
- H. Maximum height restriction of 35 feet for residential structures, unless superceded by Scenic Review Criteria of Section 40.240.490 or 40.240.500.
- I. Where larger setbacks are not required by Section 40.240.190(B), parcels which are non-conforming as to minimum lot size or width and depth requirements may observe building setbacks of 50 feet from all property lines except side setbacks adjacent to streets, which may observe building setbacks of 25 feet.

#### **40.240.450 RECREATION**

Sections 40.240.450 through 40.240.480 shall apply to those areas zoned Gorge Public Recreation on the Scenic Area Land Use Map.

#### **40.240.460 USES ALLOWED OUTRIGHT - GORGE PUBLIC RECREATION ZONE**

The following uses are allowed on lands in the General Management Area zoned Gorge Public Recreation without review:

- A. Forest practices that do not violate conditions of approval for other approved development.
- B. Repair, maintenance and operation of existing structures, trails, roads, railroads, and utility facilities.
- C. Agricultural uses, except for new cultivation.

#### **40.240.470 REVIEW USES - PUBLIC RECREATION**

The following uses are allowed on all lands in the General Management Area zoned Gorge Public Recreation:

- A. The following uses may be allowed on lands in the General Management Area zoned Gorge Public Recreation, subject to compliance with the appropriate scenic, cultural, natural, and recreation resources guidelines (Sections 40.240.490 through 40.240.590), and where applicable, Sections 40.240.580 (E)(1) and (E)(3) through (E)(7):
  - 1. Publicly-owned, resource-based recreation uses consistent with Section 40.240.580.
  - 2. Commercial uses and non-resource based recreation uses that are part of an existing or approved, resource-based public recreation use consistent with guidelines contained in this.
  - 3. New cultivation, subject to compliance with Sections 40.240.530 through 40.240.560.
- B. The following uses may be allowed on lands in the General Management Area zoned Gorge Public Recreation, subject to compliance with the appropriate scenic, cultural, natural and recreation resources guidelines (Sections 40.240.480 through 40.240.590):
  - 1. Residences and accessory structures, limited to one single-family dwelling for each parcel legally created prior to adoption of the Management Plan. Exceptions may be considered only upon demonstration that more than one residence is necessary for management of a public park.
  - 2. Agricultural buildings.
  - 3. Utility transmission, transportation, communication and public works facilities.
- C. Land divisions, subject to compliance with Section 40.240.480(C).
- D. Placement of structures necessary for continued public safety and the protection of private property and essential public services damaged during an emergency/disaster event. This includes the replacement of temporary structures erected during such events with permanent structures performing an identical or related function. Land use proposals shall be submitted within 12 months following an emergency/disaster event.

#### **40.240.480 APPROVAL CRITERIA FOR NON-RECREATION USES IN GORGE PUBLIC RECREATION ZONES**

The uses identified in Section 40.240.470(B) may be allowed only if they meet the following:

- A. The proposed use will not interfere with existing or approved public recreation uses on the subject property or adjacent lands. Mitigation measures to comply with this criterion may include onsite buffers, seasonal or temporary closures during peak recreation use periods, etc.

- B. The proposed use will not permanently commit the majority of the site to a non-recreational use. Careful siting and design of structure and other improvements may be used to comply with this criterion.
- C. Land divisions may be allowed consistent with Section 40.240.190(A)(2) and upon a demonstration that the proposed land division is necessary to facilitate, enhance or otherwise improve recreational uses on the site.

#### **40.240.490 GENERAL MANAGEMENT AREA SCENIC REVIEW CRITERIA**

The following scenic review guidelines shall apply to all Review Uses in the General Management Area of the Columbia River Gorge National Scenic Area:

A. All Review Uses:

- 1. New buildings and roads shall be sited and designed to retain the existing topography and reduce necessary grading to the maximum extent practicable.
- 2. New buildings shall be generally consistent with the height and size of existing nearby development.
- 3. Project applicants shall be responsible for the proper maintenance and survival of any planted vegetation required by the guidelines in Section 40.240.490.
- 4. For all proposed development, the determination of compatibility with the landscape setting shall be based on information submitted in the site plan.
- 5. For all new production and/or development of mineral resources and expansion of existing quarries, a reclamation plan is required to restore the site to a natural appearance which blends with and emulates surrounding landforms to the maximum extent practicable.

Such a plan shall be approved by the appropriate state agency for uses under their jurisdiction, or approved by the responsible official with technical assistance from applicable state agencies for uses not under state agency jurisdiction. At a minimum, such reclamation plans shall include:

- a. A map of the site, at a scale of 1-inch equals 200 feet (1:2,400), or a scale providing greater detail, with 10 foot contour intervals or less, showing pre-mining existing grades and post-mining final grades; locations of topsoil Stockpiles for eventual reclamation use; location of catch-basins or similar drainage and erosion control features employed for the duration of the use; and the location of storage, processing and equipment areas employed for the duration of the use.
- b. Cross-sectional drawings of the site showing pre-mining and post-grades. Descriptions of the proposed use, in terms of estimated quantity and type of material removed, estimated duration of the use, processing activities, etc.
- c. Description of drainage/erosion control features to be employed for the duration of the use.
- d. A landscaping plan providing for revegetation consistent with the vegetation patterns of the subject landscape setting, indicating the species, number, size and location of plantings for the final reclaimed grade, as well as a description of irrigation provisions or other measures necessary to ensure the survival of plantings.

B. All Review Uses visible from Key Viewing Areas shall comply with the following applicable guidelines:

- 1. Size, height, shape, color, reflectivity, landscaping, siting or other aspects of proposed development shall be evaluated to ensure that such development is visually subordinate to its setting as seen from Key Viewing Areas.
- 2. The extent and type of conditions applied to a proposed development to achieve visual subordination should be proportionate to its potential visual impacts as seen from Key Viewing Areas. Primary factors influencing the degree of potential visual impact include: the amount of area of the building site exposed to Key Viewing Areas, the degree of existing vegetation providing screening, the distance from the building site to the Key Viewing Areas from which it is visible, the number of Key Viewing Areas from which it is visible, and the linear distance along the Key Viewing Areas from which the building site is visible (for linear Key Viewing Areas, such as roads). Written reports on determination of visual subordination and final conditions of approval shall include findings addressing each of these factors.
- 3. Determination of potential visual effects and compliance with visual subordination policies shall include consideration of the cumulative effects of proposed developments.

4. For all buildings, roads or mining and associated activities proposed on lands visible from Key Viewing Areas, the following supplemental site plan information shall be submitted in addition to the site plan requirements in Sections 40.240.100 and 40.240.490(A)(5) for mining and associated activities:
  - a. For buildings, a description of the proposed building(s)' height, shape, color, exterior building materials, exterior lighting, and landscaping details (type of plants used, number, size, locations of plantings, and any irrigation provisions or other measures to ensure the survival of landscaping planted for screening purposes).
  - b. Elevation drawings showing the appearance of proposed building(s) when built and surrounding final ground grades, for all buildings over 400 square feet in area.
5. For proposed mining and associated activities on lands visible from Key Viewing Areas, in addition to submittal of plans and information pursuant to Section 40.240.490(A)(5) and subsection (4) above, project applicants shall submit perspective drawings of the proposed mining areas as seen from applicable Key Viewing Areas.
6. New buildings or roads shall be sited on portions of the subject property which minimize visibility from Key Viewing Areas, unless the siting would place such development in a buffer specified for protection of wetlands, riparian corridors, sensitive plants, sensitive wildlife sites or conflict with the protection of cultural resources. In such situations, development shall comply with this guideline to the maximum extent practicable.
7. In siting new buildings and roads, use of existing topography and vegetation to screen such development from Key Viewing Areas shall be give priority over other means of achieving visual subordination, such as planting of new vegetation or use of artificial berms to screen the development from Key Viewing Areas.
8. Driveways and buildings shall be designed and sited to minimize grading activities and visibility of cut banks and fill slopes from Key Viewing Areas.
9. The exterior of buildings on lands seen from Key Viewing Areas shall be composed of non-reflective materials or materials with low reflectivity, unless the structure would be fully screened from all Key Viewing Areas by existing topographic features.
10. Exterior lighting shall be directed downward and sited, hooded and shielded such that it is not highly visible from Key Viewing Areas. Shielding and hooding materials shall be composed of non-reflective, opaque materials.
11. Additions to existing buildings smaller in total square area than the existing building may be the same color as the existing building. Additions larger than the existing building shall be of colors specified in the design guidelines for the subject property's landscape setting.
12. Rehabilitation of or modifications to existing significant historic structures shall be exempted from visual subordination requirements for lands seen from Key Viewing Areas. To be eligible for such exemption, the structure must be included in or eligible for inclusion in, the National Register of Historic Places or be in the process of applying for a determination of significance pursuant to such regulations. Rehabilitation of or modifications to structures meeting this guideline shall be consistent with National Park Service regulations for such structures.
13. The silhouette of new buildings shall remain below the skyline of a bluff cliff or ridge as seen from Key Viewing Areas. Variances to this guideline may be granted if application of the guideline would leave the owner without a reasonable economic use. The variance shall be the minimum necessary to allow the use, and may be applied only after all reasonable efforts to modify the design, building height, and site to comply with the guideline have been made.
14. An alteration to a building built prior to November 17, 1986, which already protrudes above the skyline of a bluff, cliff or ridge as seen from a Key Viewing Area, may itself protrude above the skyline if:
  - a. The altered building, through use of color, landscaping and/or other mitigation measures, contrasts less with its setting than before the alteration; and
  - b. There is no practicable alternative means of altering the building without increasing the protrusion.
15. New main lines on lands visible from Key Viewing Areas for the transmission of electricity, gas, oil, other fuels, or communications, except for connections to individual users or small clusters of individual users, shall be built in existing transmission corridors unless it can be demonstrated that use of existing corridors is not practicable. Such new lines shall be underground as a first preference unless it can be demonstrated to be impracticable.

16. New communication facilities (antennae, dishes, etc.) on lands visible from Key Viewing Areas, which require an open and unobstructed site, shall be built upon existing facilities unless it can be demonstrated that use of existing facilities is not practicable.
17. New communications facilities may protrude above a skyline visible from a Key Viewing Area only upon demonstration that:
  - a. The facility is necessary for public service;
  - b. The break in the skyline is seen only in the background; and
  - c. The break in the skyline is the minimum necessary to provide the service.
18. Overpasses, safety and directional signs and other road and highway facilities may protrude above a skyline visible from a Key Viewing Area only upon a demonstration that:
  - a. The facility is necessary for public service; and
  - b. The break in the skyline is the minimum necessary to provide the service.
19. Except for water-dependent development and for water-related recreation development, development shall be set back 100 feet from the ordinary high water mark of the Columbia River below Bonneville Dam, and 100 feet from the normal pool elevation of the Columbia River above Bonneville Dam, unless the setback would render a property unbuildable. In such cases, variances to the setback may be authorized.
20. New buildings shall not be permitted on lands visible from Key Viewing Areas with slopes in excess of 30 percent. A variance may be authorized if the property would be rendered unbuildable through the application of this guideline. In determining the slope, the average percent slope of the proposed building site shall be used.
21. All proposed structural development involving more than 100 cubic yards of grading on sites visible from Key Viewing Areas and which slope between ten and thirty percent (10-30%) shall include submittal of a grading plan. This plan shall be reviewed by the responsible official for compliance with Key Viewing Area policies. The grading plan shall include the following:
  - a. A map of the site, prepared at a scale of 1-inch equals 200 feet (1:2,400), or a scale providing greater detail, with contour intervals of at least 5 feet, including:
    - (1) Existing and proposed final grades;
    - (2) Location of all areas to be graded, with cut banks and fill slopes delineated; and
    - (3) Estimated dimensions of graded areas.
  - b. A narrative description (may be submitted on the grading plan site map and accompanying drawings) of the proposed grading activity, including:
    - (1) Its purpose;
    - (2) An estimate of the total volume of material to be moved;
    - (3) The height of all cut banks and fill slopes;
    - (4) Provisions to be used for compaction, drainage, and stabilization of graded areas (preparation of this information by a licensed engineer or engineering geologist is recommended);
    - (5) A description of all plant materials used to revegetated exposed slopes and banks, including type of species, number of, size and location of plants, and a description of irrigation provisions or other measures necessary to ensure the survival of plantings; and
    - (6) A description of any other interim or permanent erosion control measures to be utilized.
22. Expansion of existing quarries and new production and/or development of mineral resources proposed on sites within the CRGNSA area more than 3 miles from the nearest Key Viewing Areas from which it is visible may be allowed upon a demonstration that:
  - a. The site plan requirements for such proposals pursuant to this chapter have been met.
  - b. The area to be mined and the area to be used for primary processing, equipment storage, stockpiling, etc. associated with the use would be visually subordinate as seen from any Key Viewing Areas.
  - c. A reclamation plan to restore the site to a natural appearance which blends with and emulates surrounding landforms to the maximum extent practicable has been approved. The plan shall be approved by the applicable state agency with jurisdiction, or approved by the responsible official with technical assistance from applicable state agencies for uses not under state agency jurisdiction. At minimum, the reclamation plan shall comply with Section 40.240.490 (A)(5).
  - d. A written report on a determination of visual subordination has been completed, with findings addressing the extent of visibility of proposed activities from Key Viewing Areas, including:
    - (1) A list of Key Viewing Areas from which exposed mining surfaces (and associated facilities/activities) would be visible;



- (2) An estimate of the surface area of exposed mining surfaces that would be visible from those Key Viewing Areas;
  - (3) The distance from those Key Viewing Areas and the linear distance along those Key Viewing Areas from which proposed mining surfaces are visible;
  - (4) The slope and aspect of mining surfaces relative to those portions of Key Viewing Areas from which they are visible;
  - (5) The degree to which potentially visible minimum surfaces are screened from Key Viewing Areas by existing vegetation, including winter screening considerations.
  - (6) The degree to which potentially visible mining surfaces would be screened by new plantings, berms, etc. and appropriate time frames to achieve such results, including winter screening considerations.
23. Unless addressed by guideline (B)(22) above, new production and/or development of mineral resources may be allowed upon a demonstration that:
- a. The site plan requirements for such proposals pursuant to this section have been met;
  - b. The area to be mined and the area used for primary processing, equipment storage, stockpiling, etc. associated with the use would be fully screened from any Key Viewing Area; and
  - c. A reclamation plan to restore the area to a natural appearance which blends with and emulates surrounding landforms to the maximum extent practicable has been approved by the applicable state agency with jurisdiction, or approved by the responsible official with technical assistance from applicable state agencies for uses not under state agency jurisdiction. At minimum, the reclamation plan shall comply with Section 40.240.490(A)(5).
24. An interim time period to achieve compliance with visual subordination requirements for expansion of existing quarries and development of new quarries located more than 3 miles from the nearest visible Key Viewing Area shall be established prior to approval. The interim time period shall be based on site-specific topographic and visual conditions, but shall not exceed 3 years beyond the date of approval.
25. An interim time period to achieve compliance with full screening requirements for new quarries located less than 3 miles from the nearest visible Key Viewing Area shall be established prior to approval. The interim time period shall be based on site-specific topographic and visual conditions, but shall not exceed 1 year beyond the date of approval. Quarrying activity occurring prior to achieving compliance with full screening requirements shall be limited to activities necessary to provide such screening (creation of berms, etc.).
26. Compliance with specific approval conditions to achieve visual subordination (such as landscaped screening), shall occur within a period not to exceed 2 years after the date of development approval. This guideline shall apply to all development regulated by this section except mining and associated uses.
- C. All Review Uses within the following landscape settings, as delineated by the Columbia River Gorge Management Plan Landscape Settings map, shall comply with the following applicable guidelines:
- 1. Pastoral
    - a. New development shall be compatible with the general scale (height, dimensions, overall mass) of development in the vicinity. Expansion of existing development shall comply with this guideline to the maximum extent practicable.
    - b. Accessory structures, outbuildings and accessways shall be clustered together as much as possible, particularly towards the edges of existing meadows, pastures and farm fields.
    - c. In portions of tins setting visible from Key Viewing Areas, the following guidelines shall be employed to achieve visual subordination for new development and expansion of existing development:
      - (1) Except as is necessary for site development or safety purposes, the existing tree cover screening the development from Key Viewing Areas shall be retained.
      - (2) Vegetative landscaping shall, where feasible, retain the open character of existing pastures and fields.
      - (3) At least half of any trees planted for screening purposes shall be species native to the setting or commonly found in the area. Such species include fruit trees, Douglas fir, Lombardy poplar (usually in rows), Oregon white oak, big leaf maple, and black locust (primarily in the eastern Gorge).
      - (4) At least one-quarter of any trees planted for screening shall be coniferous for winter screening.

- (5) The exteriors of structures shall be dark and either natural or earth-tone colors unless specifically exempted by Section 40.240.490(B)(11) or (B)(12).
  - d. Compatible recreation uses include resource-based recreation uses of a very low or low-intensity nature (as defined by Section 40.240.580), occurring infrequently in the landscape.
- 2. Coniferous Woodland
  - a. New development shall be compatible with the general scale (height, dimensions and overall mass) of development in the vicinity. Expansion of existing development shall comply with this guideline to the maximum extent practicable.
  - b. Structure height shall remain below the forest canopy level.
  - c. In portions of this setting visible from Key Viewing Areas, the following guidelines shall be employed to achieve visual subordination for new development and expansion of existing development:
    - (1) Except as is necessary for construction of access roads, building pads, leach fields, etc., the existing tree cover screening the development from Key Viewing Areas shall be retained.
    - (2) At least half of any trees planted for screening purposes shall be species native to the setting. Such species include: Douglas fir, grand fir, western red cedar, western hemlock, big leaf maple, red alder, ponderosa, pine and Oregon white oak, and various native willows (for riparian areas).
    - (3) At least half of any trees planted for screening purposes shall be coniferous to provide winter screening.
    - (4) The exteriors of structures shall be either natural or earth-tone colors unless specifically exempted by Section 40.240.490(B)(11) or (B)(12).
  - d. Compatible recreation uses include resource-based recreation uses of varying intensities. Typically, outdoor recreation uses should be low-intensity, and include trails, small picnic areas and scenic viewpoints. Some more intensive recreation uses, such as campgrounds, may occur. They should be scattered, interspersed with large areas of undeveloped land and low-intensity uses.
- 3. Rural Residential
  - a. New development shall be compatible with the general scale (height, dimensions and overall mass) of development in the vicinity. Expansion of existing development shall comply with this guideline to the maximum extent practicable.
  - b. Existing tree cover shall be retained as much as possible, except as is necessary for site development, safety purposes, or as part of forest management practices.
  - c. In portions of this setting visible from Key Viewing Areas the following guidelines shall be employed to achieve visual subordination for new development and expansion of existing development:
    - (1) Except as is necessary for site development or safety purposes, the existing tree cover screening the development from Key Viewing Areas shall be retained.
    - (2) Vegetative landscaping shall, where feasible, retain the open character of existing pastures and fields.
    - (3) At least half of any trees planted for screening purposes shall be species native to the setting or commonly found in the area. Such species include fruit trees, Douglas fir, Lombardy poplar (usually in rows), Oregon white oak, big leaf maple, and black locust (primarily in the eastern gorge).
    - (4) At least one-quarter of any trees planted for screening purposes shall be coniferous to provide winter screening.
    - (5) The exteriors of structures shall be dark and either natural or earth-tone colors unless specifically exempted by Section 40.240.490(B)(11) or (B)(12).
  - d. Compatible recreation uses include resource-based recreation uses of a very low-intensity nature (as defined by Section 40.240.580), occurring infrequently in the landscape.
- 4. Rural Residential/Pastoral
  - a. New development in this setting shall meet the design guidelines for both the Rural Residential setting and the more rural Pastoral setting with which it is combined unless it can be demonstrated that compliance with the guidelines for the more rural setting is impracticable. Expansion of existing development shall comply with this guideline to the maximum extent practicable.
  - b. In the event of a possible conflict between the guidelines, the guidelines for the more rural Pastoral setting shall apply, unless it can be demonstrated that application of such guidelines would not be practicable.

- c. Compatible recreation uses should be limited to very low and low-intensity resource-based recreation uses, scattered infrequently in the landscape.
- 5. River Bottomlands
  - a. New development shall be compatible with the general scale (height, dimensions and overall mass) of development in the vicinity. Expansion of existing development shall comply with this guideline to the maximum extent practicable.
  - b. In portions of this setting visible from Key Viewing Areas, the following guidelines shall be employed to achieve visual subordination for new development and expansion of existing development:
    - (1) Except as is necessary for site development or safety purposes, existing tree cover screening the development from Key Viewing Areas shall be retained.
    - (2) At least half of any trees planted for screening purposes shall be species native to the River Bottomland setting. Public recreation developments are encouraged to maximize the percentage of planted screening vegetation native to this setting. Such species include: black cottonwood, big leaf maple, red alder, Oregon white ash, Douglas fir, western red cedar and western hemlock (west Gorge) and various native willow species.
    - (3) At least one-quarter of any trees planted for screening purposes shall be coniferous for winter screening.
    - (4) The exteriors of structures shall be dark and either natural or earth-tone colors unless specifically exempted by Section 40.240.490(B)(11) or (B)(12).
  - c. Compatible recreation uses depend on the degree of natural resource sensitivity of a particular site. In the most critically sensitive River Bottomlands, very low-intensity uses which do not impair wetlands or special habitat requirements may be compatible. In other River Bottomland areas, nodes of moderate-intensity and/or high-intensity recreation uses may be compatible, provided that:
    - (1) Their designs emphasize retention and/or enhancement of native riparian communities,
    - (2) Structures and parking areas are visually subordinate, and
    - (3) They are separated from other areas of concentrated recreation usage by stretches of natural-appearing shoreline and adjacent uplands.
- D. All Review Uses within Scenic Travel Corridors shall comply with the following applicable guidelines:
  - 1. For the purposes of implementing this section, the foreground of a Scenic Travel Corridor shall include those lands within one-quarter mile of the edge of pavement of the SR-14 Highway.
  - 2. All new buildings and alterations to existing buildings, except in a Rural Center designation (village landscape setting), shall be set back at least 100 feet from the edge of pavement of SR-14 roadway. A variance to this setback requirement may be granted pursuant to Section 40.240.190(G). All new parking lots and expansions of existing parking lots shall be set back at least 100 feet from the edge of pavement of SR-14, to the maximum extent practicable.
  - 3. Additions to existing buildings or expansion of existing parking lots located within 100 feet of the edge of pavement of a SR-14 shall comply with guideline (D)(2) above to the maximum extent practicable.
  - 4. All proposed vegetation management projects in public rights-of-way to provide or improve views shall include the following:
    - a. An evaluation of potential visual impacts of the proposed project as seen from any Key Viewing Area,
    - b. An inventory of any rare plants, sensitive wildlife habitat, wetlands or riparian areas on the project site. If such resources are determined to be present, the project shall comply with applicable guidelines to protect the resources.
  - 5. When evaluating possible locations for undergrounding of signal wires or powerlines, railroads and utility companies shall prioritize those areas specifically recommended as extreme or high priorities for undergrounding in the *Columbia River Gorge National Scenic Area Corridor Visual Inventory* prepared in April, 1990.
  - 6. New production and/or development of mineral resources proposed within one-quarter mile of the edge of pavement of a SR-14 may be allowed upon a demonstration that full visual screening of the site from SR-14 can be achieved by use of existing topographic features or existing vegetation designed to be retained through the planned duration of the proposed project. An exception to this may be granted if planting of new vegetation in the vicinity of the access road to the mining area would achieve full screening. If existing vegetation is partly or fully employed to achieve visual screening, over 75 percent of the tree canopy area shall be coniferous species providing adequate winter screening. Mining and

associated primary processing of mineral resources is prohibited within 100 feet of SR-14, as measured from the edge of pavement, except for access roads. Compliance with full screening requirements shall be achieved within time frames specified in Section 40.240.490(B)(25).

7. Expansion of existing quarries may be allowed pursuant to Section 40.240.490(B) (22). Compliance with visual subordination requirements shall be achieved within time frames specified in Section 40.240.490(B)(24).

E. Emergency/disaster response actions shall comply with the following applicable guidelines:

1. Impacts of emergency/disaster shall be evaluated to ensure that scenic resources are not adversely affected. Such actions shall be rendered visually subordinate in their landscape settings as seen from key viewing area to the greatest extent practicable, except for actions located in areas exempted from visual subordination requirements in the Management Plan [page 1-32].
2. Vegetation shall be used to screen or cover road cuts, structural development, landform alteration, and areas denuded of vegetation, as a result of emergency/disaster response actions.
3. Vegetation shall be used to screen or cover road cuts, structural development landform alteration, and areas denuded of vegetation, as a result of emergency/disaster response actions.
4. Areas denuded of vegetation as a result of emergency/disaster response actions shall be revegetated with native plant species, or species commonly found within the applicable landscape setting, to restore the affected areas to its pre-response conditions to the greatest extent practicable, but no later than one year after emergency/disaster event. An exception to the one year requirement may be granted upon demonstration of just cause, with an extension of up to one year.
5. The painting, staining or use of other new materials on new structural development shall be used to ensure that the structures are non-reflective, or of low reflectivity, and visually subordinate in their landscape setting as seen from key viewing areas, unless the structure is fully screened from key viewing area by existing topographic features.
6. Additions to existing structures, resulting from an emergency/disaster response actions, which are smaller in total height, bulk or area than the existing structures may the same color as the existing development. Additions larger than the existing development shall be visually subordinate in their landscape setting as seen from key viewing areas to the greatest extent practicable.
7. Spoil materials associated with grading, excavation and slide debris removal activities in relation to an emergency/disaster response action, shall either be (1) removed from the NSA or deposited at a site within the NSA permitted by the county, or (2) (re)contoured, to the greatest extent practicable, to retain the natural topography, or a topography which emulates that of the surrounding landscape.

#### **40.240.500 SPECIAL MANAGEMENT AREA SCENIC REVIEW CRITERIA**

The following scenic review guidelines shall apply to all Review Uses in the Special Management Area of the Columbia River Gorge National Scenic Area with the exception of rehabilitation or modification of historic structures eligible or on the National Register of Historic Places when such modification is in compliance with the National Register of Historic Places guidelines:

- A. All Review Uses in the Special Management Area regardless of location or landscape setting shall comply with the following applicable guidelines:
  1. Proposed developments shall not protrude above the line of a bluff, cliff, or skyline as seen from Key Viewing Areas.
  2. Size, scale, shape, color, texture, siting, height building materials, lighting, or other features of a proposed structure shall be visually subordinate in the landscape and have low contrast in the landscape.
  3. Colors shall be used in a manner so that developments are visually subordinate to the natural and cultural patterns in the landscape setting. Colors for structures and signs should be slightly darker than the surrounding background.
  4. Structure height shall remain below the average tree canopy height of the natural vegetation adjacent to the structure, except if it has been demonstrated that meeting this guideline is not feasible considering the function of the structure.

5. Proposed developments or land use shall be aligned, designed and sited to fit the natural topography and to take advantage of vegetation and land form screening, and to minimum visible grading or other modifications of landforms, vegetation cover, and natural characteristics.
  6. Any exterior lighting shall be sited, limited in intensity, shielded or hooded in a manner that prevents lights from being highly visible from Key Viewing Areas and from noticeably contrasting with the surrounding landscape setting except for road lighting necessary for safety purposes.
  7. Seasonal lighting displays shall be permitted on a temporary basis, not to exceed three months duration.
  8. Reflectivity of structures and site improvements shall be minimized.
  9. Right-of-way vegetation shall be managed to minimize visual impact of clearing and other vegetation removal as seen from Key Viewing Areas. Roadside vegetation management (vista clearing, planting, etc.) should enhance views from the highway.
  10. Encourage existing and require new road maintenance warehouse and stockpile areas to be screened from view from Key Viewing Areas.
- B. New developments and land uses shall be evaluated to ensure that scenic resources are not adversely affected, including cumulative effects, based on visibility from Key Viewing Areas.
- C. All new developments and land uses immediately adjacent to scenic routes shall be in conformance with state or county scenic route guidelines.
- D. New land uses or developments shall comply with the following applicable design guidelines:
1. Pastoral: Pastoral areas shall retain the overall appearance of an agricultural landscape.
    - a. New developments and forest practices shall meet the Visual Quality Objective of partial retention.
    - b. The use of plant species common to the landscape setting shall be encouraged. The use of plant species in rows as commonly found in the landscape setting is encouraged-
    - c. Exterior colors of structures shall be earth-tone colors which will result in low contrast with the surrounding landscape.
    - d. Exterior colors of structures may be white, except for the roof only in the Mt. Pleasant areas where other white structures are evident in the setting.
  2. Coniferous Woodlands areas shall retain the overall appearance of a woodland landscape. New developments and land uses shall retain the overall visual character of the natural appearance of the Coniferous Woodland landscape.
    - a. New developments and land uses in lands designated Federal Forest or Open Space shall meet the Visual Quality Objective of retention; all other land use designations shall meet the Visual Quality Objective of partial retention as seen from Key Viewing Areas.
    - b. Buildings in the Coniferous Woodland landscape setting shall be encouraged to have a vertical overall appearance.
    - c. Use of plant species native to the landscape setting shall be encouraged.
    - d. Where non-native plants are used, they shall have native-appearing characteristics.
    - e. The exteriors of structures in the Coniferous Woodland landscape setting shall be dark earth-tone colors which will result in low contrast with the surrounding landscape as seen from the Key Viewing Areas.
  3. River Bottomlands: River bottomland shall retain the overall visual character of a floodplain and associated islands.
    - a. New developments and land uses shall meet the Visual Quality Objective of partial retention, except in areas zoned Gorge Open Space which shall meet the Visual Quality Objective of retention.
    - b. Buildings shall have an overall horizontal appearance in areas with little tree cover.
    - c. Use of plant species native to the landscape setting shall be encouraged. Where non-native plants are used, they shall have native-appearing characteristics.
    - d. The exterior colors of structures shall be earth-tone or water-tone colors result in low contrast with surrounding landscape.
- E. For forest practices the following guidelines shall apply:
1. Forest practices must meet the design guidelines and Visual Quality Objective for the landscape setting designated for the management area.

2. Not more than sixteen percent (16%) of each total ownership within a viewshed shall be in created openings at any one time. The viewshed boundaries shall be delineated by the Forest Service.
  3. Size, shape, and dispersal of created openings shall maintain the natural patterns in the landscape.
  4. The maximum size of any created opening is 15 acres. In the foreground of Key Viewing Areas, the maximum size of created openings shall be five acres.
  5. Clearcutting shall not be used as a harvest practice on land zoned Gorge SMA Federal Forest.
  6. Created openings shall not create a break or opening in the vegetation in the skyline as viewed from a Key Viewing Area.
  7. Created openings shall be dispersed to maintain at least 400 feet of closed canopy between openings. Closed canopy shall be at least 20 feet tall.
- F. Emergency/disaster response actions shall comply with the following additional guidelines:
1. Impacts of emergency/disaster shall be evaluated to ensure that scenic resources are not adversely affected. Such actions shall be rendered visually subordinate in their landscape settings as seen from key viewing area to the greatest extent practicable, except for actions located in areas exempted from visual subordination requirements in the Management Plan [page 1-32].
  2. Vegetation shall be used to screen or cover road cuts, structural development landform alteration, and areas denuded of vegetation, as a result of emergency/disaster response actions.
  3. Vegetation shall be used to screen or cover road cuts, structural development, landform alteration, and areas denuded of vegetation, as a result of emergency/disaster response actions.
  4. Areas denuded of vegetation as a result of emergency/disaster response actions shall be revegetated with native plant species, or species commonly found within the applicable landscape setting, to restore the affected areas to its pre-response conditions to the greatest extent practicable, but no later than one year after emergency/disaster event. An exception to the one year requirement may be granted upon demonstration of just cause, with an extension of up to one year.
  5. The painting, staining or use of other new materials on new structural development shall be used to ensure that the structures are non-reflective, or of low reflectivity, and visually subordinate in their landscape setting as seen from key viewing areas, unless the structure is fully screened from key viewing areas by existing topographic features.
  6. Additions to existing structures, resulting from an emergency/disaster response actions, which are smaller in total height, bulk or area than the existing structures may the same color as the existing development. Additions larger than the existing development shall be visually subordinate in their landscape setting as seen from key viewing areas to the greatest extent practicable.
  7. Spoil materials associated with grading, excavation and slide debris removal activities in relation to an emergency/disaster response action, shall either be (1) removed from the NSA or deposited at a site within the NSA permitted by the county, or (2) (re)contoured, to the greatest extent practicable, to retain the natural topography, or a topography which emulates that of the surrounding landscape.

#### **40.240.510 GENERAL MANAGEMENT AREA CULTURAL RESOURCE REVIEW CRITERIA**

- A. General Provisions for Implementing the Cultural Resources Protection Process.
1. All cultural resource surveys, evaluations, assessments, and mitigation plans shall be performed by professionals whose expertise reflects the type of cultural resources that are involved. Principal investigators shall meet the professional standards published in 36 Code of Federal Regulations (CFR) Part 61 and *Guidelines for Evaluating and Documenting Traditional Cultural Properties* (Parker and King, no date).
  2. Cultural resource surveys, evaluations, assessments, and mitigation plans shall generally be conducted in consultation with Indian tribal governments and any party who submits written comments on a the proposed use related to such surveys, assessments, plans and evaluations. Indian tribal governments shall be consulted if the affected cultural resources are prehistoric or otherwise associated with Native Americans. If the cultural resources are associated with non-Native Americans, such as an historic house or pioneer campsite, the Indian tribal governments do not have to be consulted.
  3. Reconnaissance and Historic Surveys and Survey Reports.
    - a. Reconnaissance survey requirements and exceptions.

- (1) A reconnaissance survey shall be required for all proposed uses within 500 feet of a known cultural resource, including those uses listed as exceptions in Section 40.240.510.(A)(3)(a)(2).
- (2) A reconnaissance survey shall be required for all proposed uses, except:
  - (a) The modification, expansion, replacement, or reconstruction of existing buildings and structures.
  - (b) Proposed uses that would not disturb the ground, including land divisions and lot-line adjustments; storage sheds that do not require a foundation; low-intensity recreation uses, such as fishing, bunting, and hiking; installation of surface chemical toilets; hand treatment of brush within established rights-of-way; and new uses of existing structures.
  - (c) Proposed uses that involve minor ground disturbance, as defined by depth and extent, including repair and maintenance of lawfully constructed and serviceable structures; home gardens; livestock grazing; cultivation that employs minimum tillage techniques, such as replanting pastures using a grassland drill; construction of fences; new utility poles that are installed using an auger, post-hole digger, or similar implement; and placement of mobile homes where septic systems and underground utilities are not involved. The Gorge Commission shall review all land use applications and determine if proposed uses would have a minor ground disturbance.
  - (d) Proposed uses that occur on sites that have been disturbed by human activities, provided the proposed uses do not exceed the depth and extent of existing ground disturbance. To qualify for this exception, a project applicant must demonstrate that land disturbing activities occurred in the project area. Land-disturbing activities include grading and cultivation.
  - (e) Proposed uses that would occur on sites that have been adequately surveyed in the past. The project applicant must demonstrate that the project area has been adequately surveyed to qualify for this exception. Past surveys must have been conducted by a qualified professional and must include a surface survey and subsurface testing. The nature and extent of any cultural resources in the project area must be adequately documented.
  - (f) Proposed uses occurring in areas that have a low probability of containing cultural resources, except:
    - (i) Residential development that involves two or more new dwellings for the same project applicant.
    - (ii) Recreation facilities that contain parking areas for more than 10 cars, overnight camping facilities, boat ramps, and visitor information and environmental education facilities.
    - (iii) Public transportation facilities that are outside improved rights-of-way.
    - (iv) Electric facilities, lines, equipment, and appurtenances that are 33 kilovolts or greater.
    - (v) Communications, water and sewer, and natural gas transmission (as opposed to distribution) lines, pipes, equipment, and appurtenances.
    - (vi) Areas that have a low probability of containing cultural resources shall be identified by the Columbia River Gorge Commission using the results of reconnaissance surveys conducted by the Gorge Commission, the Forest Service, public agencies, and private archaeologists.
- b. A historic survey shall be required for all proposed uses that would alter the exterior architectural appearance of buildings and structures that are 50 years old or older, or would compromise features of the surrounding area that are important in defining the historic or architectural character of buildings or structures that are 50 years old or older.
- c. The Gorge Commission shall conduct and pay for all reconnaissance and historic surveys for small-scale uses in the General Management Area. When archaeological resources or traditional cultural properties are discovered, the Gorge Commission also shall identify the approximate boundaries of the resource or property and delineate a reasonable buffer zone. Reconnaissance surveys and buffer zone delineations for large-scale uses shall be the responsibility of the project applicant. For this section, large-scale uses include residential development involving two or more new dwellings; all recreation facilities; commercial and industrial development; public transportation facilities; electric facilities, lines, equipment, and appurtenances that are 33 kilovolts or greater; and communications, water and sewer, and natural gas transmission (as opposed to distribution) lines, pipes, equipment, and appurtenances.

- d. Reconnaissance Surveys for Small-Scale Uses. Reconnaissance surveys for small-scale uses shall generally include a surface survey and subsurface testing. They shall meet the following guidelines:
  - (1) A surface survey of the project area shall be conducted, except for inundated areas and impenetrable thickets.
  - (2) Subsurface testing shall be conducted if the surface survey reveals that cultural resources may be present. Subsurface probes shall be placed at intervals sufficient to determine the absence or presence of cultural resources.
- e. Reconnaissance Survey Reports for Small-Scale Uses. The results of a reconnaissance survey for small-scale uses shall be documented in a confidential report that includes:
  - (1) A description of the fieldwork methodology used to identify cultural resources, including a description of the type and extent of the reconnaissance survey.
  - (2) A description of any cultural resources that were discovered in the project area, including a written description and photographs.
  - (3) A map that shows the project area, the areas surveyed, the location of subsurface probes, and, if applicable, the approximate boundaries of the affected cultural resources and a reasonable buffer zone.
- f. Reconnaissance Surveys for Large-Scale Uses
  - (1) Reconnaissance surveys for large-scale uses shall be designed by a qualified professional. A written description of the survey shall be submitted to and approved by the Gorge Commissions designated archaeologist.
  - (2) Reconnaissance surveys shall reflect the physical characteristics of the project area and the design and potential effects of the proposed use. They shall meet the following guidelines:
    - (a) Archival research shall be performed before any field work. It should entail a thorough examination of tax records; historic maps, photographs, and drawings; previous archaeological, historic, and ethnographic research; cultural resource inventories and records maintained by federal, state, and local agencies; and primary historic accounts, such as diaries, journals, letters, and newspapers.
    - (b) Surface surveys shall include the entire project area, except for inundated areas and impenetrable thickets.
    - (c) Subsurface probes shall be placed at intervals sufficient to document the presence or absence of cultural resources.
    - (d) Archaeological site inventory forms shall be submitted to the State Historic Preservation Officer whenever cultural resources are discovered.
- g. Reconnaissance Survey Reports for Large-Scale Uses. The results of a reconnaissance survey for large-scale uses shall be documented in a confidential report that includes:
  - (1) A description of the proposed use, including drawings and maps.
  - (2) A description of the project area, including soils, vegetation, topography, drainage, past alterations, and existing land use.
  - (3) A list of the documents and records examined during the archival research and a description of any prehistoric or historic events associated with the project area.
  - (4) A description of the fieldwork methodology used to identify cultural resources, including a map that shows the project area, the areas surveyed, and the location of subsurface probes. The map shall be prepared at a scale of 1-inch equals 100 feet (1:1,200), or a scale providing greater detail.
  - (5) An inventory of the cultural resources that exist in the project area, including a written description, photographs, drawings, and a map. The map shall be prepared at a scale of 1-inch equals 100 feet (1: 1,200), or a scale providing greater detail.
  - (6) A summary of all written comments submitted by Indian tribal governments and other interested parties.
  - (7) A preliminary assessment of whether the proposed use would or would not have an effect on cultural resources. The assessment shall incorporate concerns and recommendations voiced during consultation meetings and information obtained through archival and ethnographic research and field surveys.



- h. Historic Surveys and Reports
    - (1) Historic surveys shall document the location, form, style, integrity, and physical condition of historic buildings and structures. They shall include original photographs and maps. Archival research, blueprints, and drawings should be used as necessary.
    - (2) Historic surveys shall describe any uses that will alter or destroy the exterior architectural appearance of the historic buildings or structures, or compromise features of the site that are important in defining the overall historic character of the historic buildings or structures.
    - (3) The project applicant shall provide detailed architectural drawings and building plans that clearly illustrate all proposed alterations.
  - 4. The responsibility and cost of preparing an evaluation of significance, assessment of effect, or mitigation plan shall be borne by the project applicant, except for resources discovered during construction. The Gorge Commission shall conduct and pay for evaluations of significance and mitigation plans for resources that are discovered during construction of small-scale and large-scale uses.
  - 5. Cultural resources are significant if one of the following criteria is satisfied:
    - a. The cultural resources are included in, or eligible for inclusion in, the National Register of Historic Places. The criteria for evaluating the eligibility of cultural resources for the National Register of Historic Places appear in the "National Register Criteria for Evaluation" (36 CFR 60.4).
    - b. The cultural resources are determined to be culturally significant by an Indian tribal government, based on criteria developed by that Indian tribal government and filed with the Gorge Commission.
  - 6. The Gorge Commission shall establish a Cultural Advisory Committee (CAC). The CAC shall comprise cultural resource professionals, interested individuals, and at least one representative from each of the four Indian tribes. If a project applicant's and Indian tribal government's evaluations of significance contradict, the Cultural Advisory Committee (CAC) shall review the applicant's evaluation and Indian tribal government's substantiated concerns. The CAC will submit a recommendation to the responsible official as to whether affected cultural resources are significant.
- B. Cultural Resource Reconnaissance and Historic Surveys
- 1. Consultation and Ethnographic Research
    - a. When written comments are submitted to the responsible official within the comment period provided in Section 40.240.140, the project applicant shall offer to meet with the commenting parties within 10 calendar days. The 10-day consultation period may be extended upon agreement between the project applicant and the commenting parties. Consultation meetings should provide an opportunity for commenting parties to explain how the proposed use may affect cultural resources. Recommendations to avoid potential conflicts should be discussed. All written comments and consultation meeting minutes shall be incorporated into the reconnaissance or historic survey report. In instances where a survey is not required, all such information shall be recorded and addressed in a report that typifies a survey report; inapplicable elements may be omitted.
    - b. A project applicant who is proposing a large-scale use shall conduct interviews and other forms of ethnographic research if parties commenting on the application submit a written request for such research. All requests must include a description of the cultural resources that may be affected by the proposed use and the identity of knowledgeable informants. Ethnographic research shall be conducted by qualified specialists. Tape recordings, maps, photographs, and minutes shall be used when appropriate. All written comments, consultation meeting minutes, and ethnographic research shall be incorporated into the reconnaissance or historic survey report. In instances where a survey is not required, all such information shall be recorded and addressed in a report that typifies a survey report.
  - 2. Notice of Survey Results
    - a. The responsible official shall submit a copy of all cultural resource survey reports to the State Historic Preservation Officer and the Indian tribal governments. Survey reports may include measures to avoid affected cultural resources, such as a map that shows a reasonable buffer zone.
    - b. The State Historic Preservation Officer and the tribes shall have 30 calendar days from the date a survey report is mailed to submit written comments to the responsible official. The responsible official shall record and address all written comments in the development review order.

3. Conclusion of the Cultural Resource Protection Process

- a. The responsible official shall make a final decision on whether the proposed use would be consistent with this section. If the final decision contradicts the comments submitted by the State Historic Preservation Officer, the responsible official shall justify how it reached an opposing conclusion.
- b. The cultural resource protection process may conclude when one of the following conditions exists:
  - (1) The proposed use does not require a reconnaissance or historic survey, no cultural resources are known to exist in the project area, and no substantiated concerns were voiced by parties commenting on the application within 21 calendar days of the date that a notice was mailed.
  - (2) A reconnaissance survey demonstrates that cultural resources do not exist in the project area and no substantiated concerns were voiced by commenting parties within 21 calendar days of the date that a notice was mailed.
  - (3) The proposed use would avoid archaeological resources and traditional cultural resources that exist in the project area. To meet this guideline, a reasonable buffer zone must be established around the affected resources or properties; all ground-disturbing activities shall be prohibited within the buffer zone. Buffer zones must preserve the integrity and context of cultural resources. They will vary in width depending on the eventual use of the project area, the type of cultural resources that are present, and the characteristics for which the cultural resources may be significant. A deed covenant easement or other appropriate mechanism shall be developed to ensure that the buffer zone and the cultural resources are protected. An evaluation of significance shall be conducted if a project applicant decides not to avoid the affected cultural resource. In these instances, the reconnaissance survey and survey report shall be incorporated into the evaluation of significance.
- c. A historic survey demonstrates that the proposed use would not have an effect on historic buildings or structures because:
  - (1) The State Historic Preservation Officer concludes that the historic buildings or structures are clearly not significant, as determined by using the criteria in the "National Register Criteria for Evaluation" (36 CFR 60.4), or
  - (2) The proposed use would not compromise the historic or architectural character of the affected buildings or structures, or compromise features of the site that are important in defining the overall historic character of the affected buildings or structures, as determined by the guidelines and standards in *The Secretary of the Interior's Standards for Rehabilitation and Illustrated Guidelines for Rehabilitating Historic Buildings* and *The Secretary of the Interior's Standards for Treatment of Historic Properties*. The historic survey conducted by the Gorge Commission may provide sufficient information to satisfy these guidelines. If it does not, architectural and building plans, photographs, and archival research may be required. The project applicant shall be responsible for providing information beyond that included in the survey conducted by the Gorge Commission. The historic survey and report must demonstrate that these guidelines have been clearly and absolutely satisfied. If the State Historic Preservation Officer or the responsible official question whether these guidelines have been satisfied, the project applicant shall conduct an evaluation of significance.

C. Evaluation of Significance

1. Evaluation Criteria and Information Needs. If cultural resources would be affected by a new use, an evaluation of their significance shall be conducted. Evaluations of significance shall meet the following guidelines:
  - a. Evaluations of significance shall follow the procedures in *How to Apply the National Register Criteria for Evaluation* (U.S. Department of the Interior, no date) and *Guidelines for Evaluating and Documenting Traditional Cultural Properties* (Parker and King, no date). They shall be presented within local and regional contexts and shall be guided by previous research and current research designs that are relevant to specific research questions for the Columbia River Gorge.
  - b. To evaluate the significance of cultural resources, the information gathered during the reconnaissance or historic survey may have to be supplemented. Detailed field mapping, subsurface testing, photographic documentation, laboratory analyses, and archival research may be required.

- c. The project applicant shall contact Indian tribal governments and commenting parties as appropriate. Ethnographic research shall be undertaken as necessary to fully evaluate the significance of the cultural resources.
- d. The evaluation of significance shall follow the principles, guidelines, and report format recommended by Washington Office of Archaeology and Historic Preservation (Washington SHPO, no date). It shall incorporate the results of the reconnaissance or historic survey and shall illustrate why each cultural resource is or is not significant. Findings shall be presented within the context of relevant local and regional research.
- e. All documentation used to support the evaluation of significance shall be cited. Evidence of consultation with Indian tribal governments and other commenting parties shall be presented. All comments, recommendations, and correspondence from Indian tribal governments and commenting parties shall be appended to the evaluation of significance.
- 2. Notice of Evaluation Results
  - a. If the evaluation of significance demonstrates that the cultural resources are not significant, the responsible official shall submit a copy of the evaluation of significance to the State Historic Preservation Officer and the Indian tribal governments.
  - b. The State Historic Preservation Officer, Indian tribal governments, and commenting parties shall have 30 calendar days from the date the evaluation of significance is mailed to submit written comments to the responsible official. The responsible official shall record and address all written comments in the development review order.
- 3. Cultural Resources are Culturally Significant
  - a. If an Indian tribal government believes that the affected cultural resources are culturally significant, contrary to the evaluation submitted by the project applicant, the Cultural Advisory Committee (CAC) shall make an independent review of the applications evaluation and the Indian tribal government's substantiated concerns. The CAC shall formulate a recommendation regarding the significance of the cultural resources.
  - b. The Indian tribal government shall substantiate its concerns in a written report. The report shall be submitted to the responsible official, CAC, and the project applicant within 15 calendar days from the date the evaluation of significance is mailed. The CAC must submit its recommendation to the responsible official within 30 calendar days from the date the evaluation of significance is mailed.
- 4. Conclusion of the Cultural Resource Protection Process
  - a. The responsible official shall make a final decision on whether the affected resources are significant. If the final decision contradicts the comments or recommendations submitted by the State Historic Preservation Officer or CAC, the responsible official shall justify how an opposing conclusion was reached.
  - b. The cultural resource protection process may conclude if the affected cultural resources are not significant.
  - c. If the project applicant or the responsible official determines that the cultural resources are significant, the effects of the proposed use shall be assessed.

#### D. Assessment of Effect

- 1. Assessment Criteria and Information Needs. If a use could potentially affect significant cultural resources, an assessment shall be made to determine if it would have no effect, no adverse effect, or an adverse effect.
  - a. The assessment of effect shall be based on the criteria published in "Protection of Historic Properties" (36 CFR 800.9) and shall incorporate the results of the reconnaissance or historic survey and the evaluation of significance. All documentation shall follow the requirements listed in 36 CFR 800.8.
    - (1) Proposed uses are considered to have an effect on cultural resources when they alter or destroy characteristics of the resources that make them significant [36 CFR 800.9(a)].
    - (2) Proposed uses are considered to have an adverse effect when they may diminish the integrity of the cultural resource's location, design, setting, materials, workmanship, feeling, or association [36 CFR 800.9(b)]. Adverse effects on cultural resources include, but are not limited to:
      - (a) Physical destruction, damage, or alteration of all or part of the cultural resource.
      - (b) Isolation of the cultural resource from its setting or alteration of the character of the resource's setting when that character contributes to the resource's qualification as being significant.

- (c) Introduction of visual, audible, or atmospheric elements that are out of character with the cultural resource or its setting.
      - (d) Neglect of a significant cultural resource resulting in its deterioration or destruction.
    - b. The assessment of effect shall be prepared in consultation with Indian tribal governments and interested persons, as appropriate. The concerns and recommendations voiced by Indian tribal governments and interested persons shall be recorded and addressed in the assessment.
    - c. The effects of a proposed use that would otherwise be determined to be adverse may be considered to be not adverse if any of the following instances apply:
      - (1) The cultural resources are of value only for their potential contribution to archeological, historical, or architectural research, and when such value can be substantially preserved through the conduct of appropriate research before development begins, and such research is conducted in accordance with applicable professional standards and guidelines.
      - (2) The undertaking is limited to the rehabilitation of buildings and structures, and is conducted in a manner that preserves the historical and architectural character of affected cultural resources through conformance with *The Secretary of the Interior's Standards for Rehabilitation and Illustrated Guidelines for Rehabilitating Historic Buildings* and *The Secretary of the Interior's Standards for Treatment of Historic Properties*.
  - 2. Notice of Assessment Results
    - a. If the assessment of effect concludes that the proposed use would have no effect or no adverse effect on significant cultural resources, the responsible official shall submit a copy of the assessment to the State Historic Preservation Officer and the Indian tribal governments.
    - b. The State Historic Preservation Officer, Indian tribal governments, and interested persons shall have 30 calendar days from the date the assessment of effect is mailed to submit written comments to the responsible official. The responsible official shall record and address all written comments in the development review order.
  - 3. Conclusion of the Cultural Resource Protection Process
    - a. The responsible official shall make a final decision on whether the proposed use would have no effect, no adverse effect, or an adverse effect. If the final decision contradicts the comments submitted by the State Historic Preservation Officer, the responsible official shall justify how an opposing conclusion was reached.
    - b. The cultural resource protection process may conclude if the proposed use would have no effect or no adverse effect on significant cultural resources.
    - c. A mitigation plan shall be prepared if a project applicant or the responsible official determines that the proposed use would have an adverse effect on significant cultural resources.
- E. Mitigation Plans
- 1. Mitigation Plan Criteria and Information Needs. Mitigation plans shall be prepared when proposed uses would have an adverse effect on significant cultural resources. The plans shall reduce an adverse effect to no effect or no adverse effect. Mitigation plans shall meet the following guidelines:
    - a. Mitigation plans shall be prepared in consultation with persons who have concerns about or knowledge of the affected cultural resources, including Indian tribal governments, Native Americans, local governments whose jurisdiction encompasses the project area, and the State Historic Preservation Officer.
    - b. Avoidance of cultural resources through project design and modification is preferred. Avoidance may be affected by reducing the size, scope, configuration, and density of the proposed use.
    - c. Alternative mitigation measures shall be used only if avoidance is not practicable. Alternative measures include, but are not limited to, burial under fill, stabilization, removal of the cultural resource to a safer place, and partial to full excavation and recordation. If the mitigation plan includes buffer zones to protect cultural resources, a deed covenant, easement, or other appropriate mechanism shall be developed and recorded in county deeds and records. Mitigation plans shall incorporate the results of the reconnaissance or historic survey, the evaluation of significance, and the assessment of effect, and shall provide the documentation required in 36 CFR 800.8(d), including, but not limited to:
      - (1) A description and evaluation of any alternatives or mitigation measures that the project applicant proposes for reducing the effects of the proposed use.

- (2) A description of any alternatives or mitigation measures that were considered but not chosen and the reasons for their rejection.
    - (3) Documentation of consultation with the State Historic Preservation Officer regarding any alternatives or mitigation measures.
    - (4) A description of the project applicant's efforts to obtain and consider the views of Indian tribal governments, commenting parties, and the responsible official.
    - (5) Copies of any written recommendations submitted to the responsible official or project applicant regarding the effects of the proposed use on cultural resources and alternatives to avoid or reduce those effects.
  2. Notice of Mitigation Plan Results
    - a. If a mitigation plan reduces the effect of a use from an adverse effect to no effect or no adverse effect, the responsible official shall submit a copy of the mitigation plan to the State Historic Preservation Officer and the Indian tribal governments.
    - b. The State Historic Preservation Officer, Indian tribal governments, and commenting parties shall have 30 calendar days from the date the mitigation plan is mailed to submit written comments to the responsible official. The responsible official shall record and address all written comments in the development review order.
  3. Conclusion of the Cultural Resource Protection Process
    - a. The responsible official shall make a final decision on whether the mitigation plan would reduce an adverse effect to no effect or no adverse effect. If the final decision contradicts the comments submitted by the State Historic Preservation Officer, the responsible official shall justify how an opposing conclusion was reached.
    - b. The cultural resource protection process may conclude if a mitigation plan would reduce an adverse effect to no effect or no adverse effect.
    - c. The proposed use shall be prohibited when acceptable mitigation measures fail to reduce an adverse effect to no effect or no adverse effect.
- F. Cultural Resources Discovered After Construction Begins. The following procedures shall be effected when cultural resources are discovered during construction activities. All survey and evaluation reports and mitigation plans shall be submitted to the responsible official and the State Historic Preservation Officer. Indian tribal governments also shall receive a copy of all reports and plans if the cultural resources are prehistoric or otherwise associated with Native Americans.
1. Halt of Construction. All construction activities within 100 feet of the discovered cultural resource shall cease. The cultural resources shall remain as found; further disturbance is prohibited.
  2. Notification. The project applicant shall notify the responsible official and the Gorge Commission within 24 hours of the discovery. If the cultural resources are prehistoric or otherwise associated with Native Americans, the project applicant shall also notify the Indian tribal governments within 24 hours.
  3. Survey and Evaluation. The Gorge Commission shall survey the cultural resources after obtaining written permission from the landowner and appropriate permits from the State Historic Preservation Officer. (See Revised Code of Washington [RCW] 27.53). It shall gather enough information to evaluate the significance of the cultural resources. The survey and evaluation shall be documented in a report that generally follows the guidelines in "Reconnaissance Survey Reports for Large-Scale Uses" [Section 40.240.510(A)(3) (g)] and "Evaluation of Significance: Evaluation Criteria and Information Needs" [Section 40.240.510(C)(1)]. Based on the survey and evaluation report and any written comments, the responsible official shall make a final decision on whether the resources are significant. Construction activities may recommence if the cultural resources are not significant. A mitigation plan shall be prepared if the affected cultural resources are significant.
  4. Mitigation Plan. Mitigation plans shall be prepared according to the information, consultation, and report guidelines contained in Section 40.240.510(E)(1), "Mitigation Plans: Mitigation Plan Criteria and Information Needs". Construction activities may recommence when the conditions in the mitigation plan have been executed.
- G. Discovery of Human Remains. The following procedures shall be effected when human remains are discovered during a cultural resource survey or during construction. Human remains means articulated or disarticulated human skeletal remains, bones, or teeth, with or without attendant burial artifacts.

1. Halt of Activities. All survey, excavation, and construction activities shall cease. The human remains shall not be disturbed any further.
2. Notification. Local law enforcement officials, the responsible official, the Gorge Commission, and the Indian tribal governments shall be contacted immediately.
3. Inspection. The county coroner, or appropriate official, shall inspect the remains at the project site and determine if they are prehistoric/historic; or modern. Representatives from the Indian tribal governments shall have an opportunity to monitor the inspection.
4. Jurisdiction. If the remains are modern, the appropriate law enforcement officials shall assume jurisdiction and the cultural resource protection process may conclude.
5. Treatment. Prehistoric/historic remains of Native Americans shall generally be treated in accordance with the procedures set forth RCW 27.44 and 68.05 if the remains are prehistoric/historic. If the human remains will be re-interred or preserved in their original position, a mitigation plan shall be prepared in accordance with the consultation and report requirements specified in "Mitigation Plans: Mitigation Plan Criteria and Information. Needs" [Section 40.240.510(E)(1)]. The mitigation plan shall accommodate the cultural and religious concerns of Native Americans. The cultural resource protection process may conclude when the conditions set forth in "Mitigation Plans: Conclusion of the Cultural Resource Protection Process" [Section 40.240.510(E)(3)] are met and the mitigation plan is executed.

#### H. Guidelines for emergency disaster/response actions

1. To the greatest extent practicable, emergency/disaster response actions shall not adversely affect cultural resources. Emergency/disaster response actions shall not affect Tribal treaty rights.
2. The USDA Forest Service shall determine if a reconnaissance survey or historic survey is necessary within three days after receiving notice that a post emergency land use application has been received by the agency administering the Scenic Area land use regulations.
  - a. Reconnaissance surveys shall be conducted by the USDA Forest Service and comply with the standards established in Section 40.240.510(A)(3)(d), "Reconnaissance Surveys- Small Scale Uses". Reconnaissance survey reports shall comply with the standards established in Section 40.240.510(A)(3)(e), "Reconnaissance Survey Reports Small Scale Uses".
  - b. Historic surveys shall be conducted by the USDA Forest Service and shall describe any adverse effects to historic resources resulting from emergency/disaster response action. Historic surveys shall document the location, form, style, integrity, and physical condition of historic buildings and structures. Such surveys shall also include original photographs, if available, and maps, and should use archival research, blueprints and drawings as necessary.
3. Following the submittal of a post-emergency land use application, in addition to other public notice requirements that may exist, the Tribal governments shall be notified by the responsible official when (1) a reconnaissance survey is required, or (2) cultural resources exist in the project area. Notices shall include a site plan. Tribal governments shall have 15 calendar days from the date a notice is sent to submit written comments. Written comments should describe the nature and extent of any cultural resources that exist in the project area or treaty rights that exist in the projects area and how they have been affected, and identify individuals with specific knowledge about them. The county shall send a copy of all comments to the Gorge Commission.
4. When written comments are submitted in compliance with (c) above, the project applicant shall offer to meet within five calendar days with the interested persons. The five-day consultation period may be extended upon agreement between the project applicant and the interested persons. A report shall be prepared by the agency administering the Scenic Area land use regulations following the consultation meeting. Consultation meetings and reports shall comply with the standards established in Section 40.240.510(B)(1), Consultation and Ethnographic Research, and Section 40.240.190(H), Indian Tribal Treaty Rights and Consultation.
5. If cultural resources are discovered within the area disturbed by emergency response actions, the project applicant shall have a qualified professional conduct a survey to gather enough information to evaluate the significance of the cultural resources and what effects the action had on such resources. The survey an evaluation shall be documented in a report that generally follows the guidelines in Section 40.240.510(A)(3)(g), the Reconnaissance Survey Reports for Large-Scale Uses, and in Section 40.240.510(C)(1), Evaluation Criteria and Information Needs.

6. A mitigation plan shall be prepared by the project applicant if the affected cultural resources are significant. The mitigation plan shall be prepared according to the information, consultation, and report guidelines contained in Section 40.240.510(E)(1), Mitigation Plans: Mitigation Plan Criteria and Information Needs.
7. The responsible official shall submit a copy of all reconnaissance and historic survey report and treaty rights protection plans to the SHPO and the Tribal governments. Survey reports shall include measures to mitigate adverse effects to cultural resources resulting from emergency/disaster response actions. The SHPO and Tribal governments shall have 15 calendar days from the date a survey report is mailed to submit written comments to the responsible official. The responsible official shall record and address all written comments in its development review order.
8. The responsible official shall make a final decision on whether the emergency/disaster response actions are consistent with the applicable cultural resource goals policies, and guidelines. If the final decision contradicts the comments submitted by the SHPO, or those submitted by a Tribal government regarding treaty rights the responsible official shall justify how it reached an opposing conclusion.
9. The cultural resource protection process may conclude when it has been determined that Tribal treaty rights have not been affected and one of the following conditions exists:
  - a. The emergency/disaster response action does not require a reconnaissance or historic survey, or a reconnaissance survey demonstrates that no cultural resources are known to exist in the project area, and no substantiated concerns were voiced by interested persons within 15 calendar days of the date that a notice was mailed.
  - b. The emergency/disaster response action avoided cultural resources that exist in the project area.
  - c. Adequate mitigation measures to affected cultural resources have been developed and will be implemented.
  - d. A historic survey demonstrates that emergency/disaster response actions, and associated development, had no effect on historic buildings or structures because:
    - (1) The SHPO concluded that the historic buildings or structures are clearly no eligible, as determined by using the criteria in the "National Register Criteria for Evaluation" (36 CFR 60.4), or
    - (2) The emergency/disaster response actions did not compromise the historic or architectural character of the affected buildings or structures, or compromise features of the site that are important in defining the overall historic character of the affected buildings or structures, as determined by the guidelines and standards in *The Secretary of the Interior's Standards for Rehabilitation* [U.S. Department of the Interior 1990] and *The Secretary of the Interior's Standards for Historic Preservation Projects* [U.S. Department of the Interior 1983].

#### **40.240.520 SPECIAL MANAGEMENT AREA CULTURAL RESOURCE REVIEW CRITERIA**

- A. General Guidelines for Implementing the Cultural Resources Protection Process
  1. All cultural resource information shall remain confidential, according to Section 6(a)(1)(A) of the Scenic Area Act. Federal agency cultural resource information is also exempt by statute from the Freedom of Information Act under 16 USC 470 hh and 36 CFR 296.18.
  2. All cultural resources surveys, evaluations, assessments, and mitigation plans shall be performed by professionals whose expertise reflects the type of cultural resources that are involved. Principal investigators shall meet the professional standards published in 36 CFR 61.
  3. The Forest Service will be responsible for performing the literature review and consultation, inventory, evaluations of significance, assessments of effect, and mitigation requirements in Section 40.240.520(D) for forest practices and National Forest System lands.
  4. New developments or land uses shall not adversely affect significant cultural resources.
- B. The procedures and guidelines in Section 40.240.510 shall be used to review all proposed developments and land uses other than those on all federal lands, federally assisted projects and forest practices.
- C. The procedures and guidelines in 36 CFR 800 and Section 40.240.520(D) shall be used by federal agencies to evaluate new developments or land uses on federal lands, federally assisted projects, and forest practices.
- D. The following procedures as well as the provisions in 36 CFR 800 shall be used to assess potential effects to cultural resources.

1. Literature Review and Consultation
  - a. An assessment shall be made to determine if any cultural resources listed on the National Register of Historic Places at the national, state or county level exist on or within the area of potential direct and indirect impacts.
  - b. A search shall be made of state and county government, National Scenic Area/Forest Service and any other pertinent inventories, such as archives and photographs, to identify cultural resources, including consultation with the State Historic Preservation Office and tribal governments. State and tribal government response to the consultation request shall be allowed for 30 days.
  - c. Consultation with cultural resource professionals knowledgeable about the area.
  - d. A field inventory by a cultural resource professional shall be required if the Forest Service or the responsible official determines that a recorded or known cultural resource exists on or within the immediate vicinity of a new development or land use, including those reported in consultation with the Tribal governments.
2. Field Inventory
  - a. Tribal representatives shall be invited to participate in the field inventory.
  - b. The field inventory shall consist of one or the other of the following guidelines, as determined by the cultural resource professional:
    - (1) Complete survey: the systematic examination of the ground surface through a controlled procedure, such as walking an area in evenly-spaced transects. A complete survey may also require techniques such as clearing of vegetation, augering or shovel probing of subsurface soils for the presence of buried cultural resources.
    - (2) Sample survey: the sampling of an area to assess the potential of cultural resources within the area of proposed development or use. This technique is generally used for large or difficult to survey parcels, and is generally accomplished by a stratified random or non-stratified random sampling strategy. A parcel is either stratified by variables such as vegetation, topography or elevation, or by non-environmental factors such as a survey grid.

Under this method, statistically valid samples are selected and surveyed to indicate the probability of presence, numbers and types of cultural resources throughout the sampling strata. Depending on the results of the sample, a complete survey may or may not subsequently be recommended.
  - c. A field inventory report shall be prepared, and shall include the following:
    - (1) A narrative integrating the literature review of Subsection (D)(1) above with the field inventory of Subsection (D)(2) above.
    - (2) A description of the field inventory methodology used, including the type and extent of field inventory, supplemented by maps which graphically illustrate the areas surveyed, not surveyed, and the rationale for each.
    - (3) A statement of the presence or absence of cultural resources within the area of the new development or land use.
    - (4) When cultural resources are not located, a statement of the likelihood of buried or otherwise concealed cultural resources shall be included. Recommendations and standards for monitoring, if appropriate, shall be included.
  - d. The report shall follow the format specified by the Washington Office of Archaeology and Historic Preservation for inventories conducted in the State of Washington.
  - e. The field inventory report shall be presented to the Forest Service or the responsible official for review.
3. Evaluations of Significance
  - a. When cultural resources are found within the area of the new development or land use, an evaluation of significance shall be completed for each cultural resource in accordance with to the criteria of the National Register of Historic Places (36 CFR 60.4).
  - b. Evaluations of cultural resource significance shall be guided by previous and current research designs relevant to specific research questions for the area.
  - c. Evaluations of the significance of traditional cultural properties shall follow National Register Bulletin 38, Guidelines for the Evaluation and Documentation of Traditional Cultural Properties, within local and regional contexts.



- d. Recommendations for eligibility to the National Register shall be completed for each identified resource, in accordance with National Register criteria A through D (36 CFR 60.4). The Forest Service or the responsible official shall review evaluations for adequacy.
  - e. Evidence of consultation with tribal governments and individuals with knowledge of the cultural resources in the project area, and documentation of their concerns, shall be included as part of the evaluation of significance.
  - f. An assessment of effect shall be required if the Forest Service or the responsible official determines that the inventoried cultural resources are significant.
4. Assessment of Effect
- a. For each significant (i.e., National Register eligible) cultural resource inventoried within the area of the proposed development or change in use, assessments of effect shall be completed, using the criteria outlined in 36 CFR 800.9 ("Assessing Effects"). Evidence of consultation with tribal governments and individuals with knowledge of the cultural resources of the project area shall be included for Subsections (D)(4)(b) through (D)(4)(d) below. The Forest Service or the responsible official shall review each determination for adequacy.
  - b. If the proposed development or change in use will have "No Adverse Effect," as defined by 36 CFR 800.8, to a significant cultural resource, documentation for that finding shall be completed, following the "Documentation Requirements" of 36 CFR 800.8(a).
  - c. If the proposed development or change in use will have an "Adverse Effect" as defined by 36 CFR 800.9(b) to a significant cultural resource, the type and extent of "adverse effect" upon the qualities of the property that make it eligible for the National Register shall be documented. This documentation shall follow the process outlined under 36 CFR 800.5(e).
  - d. If the "effect" appears to be beneficial (i.e., an enhancement to cultural resources), documentation shall be completed for the recommendation of that effect upon the qualities of the cultural resource that make it eligible to the National Register. This documentation shall follow the process outlined under 36 CFR 800.8 ("Documentation Requirements").
5. Mitigation
- a. If there will be an effect on cultural resources, measures shall be provided for mitigation of effects. These measures shall address factors such as avoidance of the property through project design or modification and subsequent protection, burial under fill, data recovery excavations, or other measures which are proposed to mitigate effects.
  - b. Evidence of consultation with tribal governments and individuals with knowledge of the resources to be affected, and documentation of their concerns, shall be included for all mitigation proposals.
  - c. The Forest Service or the responsible official shall review all mitigation proposals for adequacy.
- E. Discovery During Construction. All authorizations for new developments or land uses shall be conditioned to require the immediate notification of the Forest Service or the responsible official if cultural resources are discovered during construction or development.
- 1. If cultural resources are discovered, particularly human bone or burials, work in the immediate area of discovery shall be suspended until a cultural resource professional can evaluate the potential significance of the discovery and recommend measures to protect and/or recover the resources.
  - 2. If the discovered material is suspected to be human bone or a burial, the following procedure shall be used:
    - a. The applicant shall stop all work in the vicinity of the discovery.
    - b. The applicant shall immediately notify the responsible official, the Forest Service, the applicant's cultural resource professional, the State Medical Examiner, and appropriate law enforcement agencies.
    - c. The Forest Service or the responsible official shall notify the tribal governments if the discovery is determined to be an Indian burial or a cultural resource.
    - d. A cultural resource professional shall evaluate the potential significance of the resource pursuant to Section 40.240.520(D)(3) and report the results to the Forest Service or the responsible official.
  - 3. The cultural resource review process shall be complete and work may continue if the Forest Service or the responsible official determines that the cultural resource is not significant.
  - 4. The cultural resource professional shall recommend measures to protect and/or recover the resource pursuant to Section 40.240.520(D)(5) if the Forest Service or the responsible official determines that the cultural resource is significant.

#### 40.240.530 GENERAL MANAGEMENT AREA WETLAND REVIEW CRITERIA

##### A. Wetlands Boundaries and Site Plans for Review Uses in Wetlands

1. If the proposed use is within a wetland or wetlands buffer zone, the applicant shall be responsible for determining the exact location of the wetland boundary.
  - a. The approximate location and extent of wetlands in the Scenic Area are indicated on the list of hydric soils and the soil survey maps and the National Wetlands Inventory (U.S. Department of the Interior 1987). Wetlands boundaries shall be delineated using the procedures specified in the *Federal Manual for Identifying and Delineating Jurisdictional Wetlands* (Federal Interagency Committee for Wetland Delineation, 1989), and any subsequent amendments.
  - b. All wetlands delineations shall be conducted by a professional who has been trained to use the federal delineation process, such as a soil scientist, botanist, or wetlands ecologist.
  - c. The responsible official may verify the accuracy of, and may render adjustments to, a wetlands boundary delineation. In the event the adjusted boundary delineation is contested by the applicant, the responsible official shall, at the applicant's expense, obtain professional services to render a final delineation.
  - d. Proposed uses within wetlands or wetlands buffer areas shall comply with SEPA, this section, and Chapter 40.450, as applicable. Chapter 40.240 shall prevail in cases of conflict with such regulations.
2. In addition to the information required in all site plans, site plans for proposed uses in wetlands or wetlands buffer zones shall include:
  - a. a site plan map prepared at a scale of 1-inch equals 100 feet (1:1,200), or a scale providing greater detail;
  - b. the exact boundary of the wetland and the wetlands buffer zone; and
  - c. a description of actions that would alter or destroy the wetland.

##### B. Uses allowed outright in wetlands and wetlands buffer zones.

1. This section shall not apply to proposed uses that would occur in the main stem of the Columbia River. The main stem of the Columbia River is depicted on the map titled "Boundary Map, Columbia River Gorge National Scenic Area," numbered NSA-001 and dated September 1986. (This map is available at county planning departments and Commission and Forest Service offices.) The boundaries of the main stem appear as a heavy black line that generally follows the shoreline. For Section 40.240.100, backwaters and isolated water bodies created by roads and railroads are not part of the main stem of the Columbia River.
2. The following uses are allowed in wetlands and wetlands buffer zones without review, if they:
  - a. Are conducted using best management practices;
  - b. Do not require structures, grading, draining, flooding, ditching, vegetation remove or dredging beyond the extent specified below; and
  - c. Comply with all applicable federal, state, and county laws:
    - (1) Fish and wildlife management uses conducted by federal, state, or Indian tribal resource agencies.
    - (2) Soil, water, and vegetation conservation uses that protect and enhance wetlands acreage and functions.
    - (3) Low-intensity recreation uses, including hunting, fishing, trapping, bird watching, hiking, boating, swimming, and canoeing.
    - (4) Non-commercial harvesting of wild crops, such as ferns, moss, berries, tubers, tree fruits, and seeds in a manner that does not injure natural plant reproduction or impact sensitive plant species.
    - (5) Agriculture, except new cultivation. Any operation that would cultivate land that has not been cultivated, or has lain idle, for more than 5 years shall be considered new cultivation. For this guideline cultivation and vegetation removal may be allowed in conjunction with a home garden.
    - (6) Ditching, tilling, dredging, or grading conducted solely for the purpose of repairing and maintaining existing irrigation and drainage systems necessary for agriculture, provided that such uses are not undertaken to cultivate lands that have not been cultivated, or have lain idle, for more than 5 years.
    - (7) Commercial fishing and trapping.
    - (8) Educational uses and scientific research.
    - (9) Navigation aids, including structures covered by Section 17(a)(3) of the Scenic Area Act.
    - (10) Forest practices that do not violate conditions of approval for other approved uses.

- (11) Repair, maintenance, and operation of existing and serviceable structures, trails, roads, railroads and utility facilities.
- C. The following uses may be allowed in wetlands and wetlands buffer zones when approved pursuant to the provisions in Section 40.240.530(E), and reviewed under the applicable provisions of Sections 40.240.490 through 40.240.590:
1. The modification, expansion, replacement, or reconstruction of serviceable structures, if such actions would not:
    - a. Increase the size of an existing structure by more than one-hundred percent (100%),
    - b. Result in a loss of wetlands acreage or functions, or
    - c. Intrude further into a wetland or wetlands buffer zone. New structures shall be considered intruding further into a wetland or wetlands buffer zone if any portion of the structure is located to the wetland or wetlands buffer zone than the existing structure.
  2. The construction of minor water-related recreation structures that are available for public use. Structures in this category shall be limited to boardwalks; trails and paths, provided their surface is not constructed of impervious materials; observation decks; and interpretative aids, such as kiosks and signs.
  3. The construction of minor water-dependent structures that are placed on pilings, if the pilings allow unobstructed flow of water and are not placed so close together that they effectively convert an aquatic area to dry land. Structures in this category shall be limited to public and private docks and boat houses, and fish and wildlife management structures that are constructed by federal, state, or tribal resource agencies.
- D. Uses not listed in Sections 40.240.530(B) and (C) may be allowed in wetlands and wetlands buffer zones, when approved pursuant to Section 40.240.530(F) and reviewed under the applicable provisions of Sections 40.240.490 through 40.240.590.
- E. Applications for modifications to serviceable structures and minor water-dependent and water-related structures in wetlands shall demonstrate that:
1. Practicable alternatives to locating the structure outside of the wetlands or wetland buffer zone and/or minimum the impacts of the structure do not exist;
  2. All reasonable measures have been applied to ensure that the structure will result in the minimum feasible alteration or destruction of the wetlands, existing contour, functions, vegetation, fish and wildlife resources, and hydrology;
  3. The structure will be constructed using best management practices;
  4. Areas disturbed during construction of the structure will be rehabilitated to the maximum extent practicable; and
  5. The structure complies with all applicable federal, state, and county laws.
- F. Applications for all other Review Uses in wetlands shall demonstrate that:
1. The proposed use is water-dependent, or is not water-dependent but has no practicable alternative considering a of the following:
    - a. The basic purpose of the use cannot be reasonably accomplished using one or more other sites in the vicinity that would avoid or result in less adverse effects on wetlands;
    - b. The basic purpose of the use cannot be reasonably accomplished by reducing its size, scope, configuration, or density as proposed, or by changing the design of the use in a way that would avoid or result in less adverse effects on wetlands; and
    - c. Reasonable attempts have been made to remove or accommodate constraints that caused a project applicant to reject alternatives to the use as proposed. Such constraints include inadequate infrastructure, parcel size, and zone designations. If a land designation or recreation intensity class is a constraint, an applicant must request a Management Plan amendment to demonstrate that practicable alternatives do not exist. An alternative site for a proposed use shall be considered practicable if it is available and the proposed use can be undertaken on that site after taking into consideration cost, technology, logistics, and overall project purposes.
  2. The proposed use is in the public interest. The following factors shall be considered when determining if a proposed use is in the public interest:
    - a. The extent of public need for the proposed use.

- b. The extent and permanence of beneficial or detrimental effects that the proposed use may have on the public and private uses for which the property is suited.
  - c. The functions and size of the wetland that may be affected.
  - d. The economic value of the proposed use to the general area.
  - e. The ecological value of the wetland and probable effect on public health and safety, fish, plants, and wildlife.
3. Measures will be applied to ensure that the proposed use results in the minimum feasible alteration or destruction of the wetland's functions, existing contour, vegetation, fish and wildlife resources, and hydrology.
  4. Groundwater and surface-water quality will not be degraded by the proposed use.
  5. Those portions of a proposed use that are not water-dependent or have a practicable alternative will not be located in wetlands or wetlands buffer zones.
  6. The proposed use complies with all applicable federal, state, and county laws.
  7. Areas that are disturbed during construction will be rehabilitated to the maximum extent practicable.
  8. Unavoidable impacts to wetlands will be offset through restoration, creation, or enhancement of wetlands. Wetlands restoration, creation, and enhancement are not alternatives to the guidelines listed above; they shall be used only as a last resort to offset unavoidable wetlands impacts. The following wetlands restoration, creation, and enhancement guidelines shall apply:
    - a. Impacts to wetlands shall be offset by restoring or creating new wetlands or by enhancing degraded wetlands. Wetlands restoration shall be the preferred alternative.
    - b. Wetlands restoration, creation, and enhancement projects shall be conducted in accordance with Section 40.240.530(H) and Chapter 40.450, although Chapter 40.240 shall prevail in cases of conflict.
    - c. Wetlands restoration, creation, and enhancement projects shall use native vegetation.
    - d. The size of replacement wetlands shall equal or exceed the following ratios (the first number specifies the required acreage of replacement wetlands and the second number specifies the acreage of wetlands altered or destroyed):
 

(1) Restoration:	2:1
(2) Creation:	3:1
(3) Enhancement:	4:1
    - e. Replacement wetlands shall replicate the functions of the wetland that will be altered or destroyed such that no net loss of wetlands functions occurs.
    - f. Replacement wetlands should replicate the type of wetland that will be altered or destroyed. If this guideline is not feasible or practical due to technical constraints, a wetland type of equal or greater benefit may be substituted, provided that no net loss of wetlands functions occurs.
    - g. Wetlands restoration, creation, or enhancement should occur within 1,000 feet of the affected wetland. If this is not practicable due to physical or technical constraints, replacement shall occur within the same watershed and as close to the altered or destroyed wetland as practicable.
    - h. Wetlands restoration, creation, and enhancement efforts should be completed before a wetland is altered or destroyed. If it is not practicable to complete all restoration, creation, and enhancement efforts before the wetland is altered or destroyed, these efforts shall be completed before the new use is occupied or used.
    - i. Five years after a wetland is restored, created, or enhanced at least 75 percent of the replacement vegetation must survive. For a period of at least 5 years the owner shall monitor the hydrology and vegetation of the replacement wetland and shall take corrective measures to ensure that it conforms with the approved wetlands compensation plan and this guideline.

**G. Wetlands Buffer Zones**

1. The width of wetlands buffer zones shall be based on the dominant vegetation community that exists in a buffer zone.
2. The dominant vegetation community in a buffer zone is the vegetation community that covers the most surface area of that portion of the buffer zone that lies between the proposed activity and the affected wetland. Vegetation communities are classified as forest, shrub, or herbaceous.
  - a. A forest vegetation community is characterized by trees with an average height equal to or greater than 20 feet, accompanied by a shrub layer; trees must form a canopy cover of at least forty percent (40%) and shrubs must form a canopy cover of at least forty percent (40%). A forest community without a

- shrub component that forms a canopy cover of at least forty percent (40%) shall be considered a shrub vegetation community.
- b. A shrub vegetation community is characterized by shrubs and trees that are greater than 3 feet tall and form a canopy cover of at least forty percent (40%).
  - c. An herbaceous vegetation community is characterized by the presence of herbs, including grass and grass-like plants, forbs, ferns, and non-woody vines.
3. Buffer zones shall be measured outward from a wetlands boundary on a horizontal scale that is perpendicular to the wetlands boundary. The following buffer zone widths shall be required:
    - a. Forest communities: 75 feet
    - b. Shrub communities: 100 feet
    - c. Herbaceous communities: 150 feet
  4. Except as otherwise allowed, wetlands buffer zones shall be retained in their natural condition. When a buffer zone is disturbed by a new use, it shall be replanted with native plant species as identified in the Clark County Plant List (see the Standard Details Manual).
- H. Wetlands Compensation Plans. Wetlands compensation plans shall be prepared when a project applicant is required to restore, create or enhance wetlands. They shall satisfy the following guidelines:
1. Wetlands compensation plans shall be prepared by a qualified professional hired by a project applicant. They shall provide for land acquisition, construction, maintenance, and monitoring of replacement wetlands.
  2. Wetlands compensation plans shall include an ecological assessment of the wetland that will be altered or destroyed and the wetland that will be restored, created, or enhanced. The assessment shall include information on flora, fauna, hydrology, and wetlands functions.
  3. Compensation plans shall also assess the suitability of the proposed site for establishing a replacement wetland, including a description of the water source and drainage patterns, topography, wildlife habitat opportunities, and value of the existing area to be converted.
  4. Plan view and cross-sectional, scaled drawings; topographic survey data, including elevations at contour intervals no greater than 1-foot, slope percentages, and final grade elevations; and other technical information shall be provided in sufficient detail to explain and illustrate:
    - a. Soil and substrata conditions, grading, and erosion and sediment control needed for wetland construction and long-term survival.
    - b. Planting plans that specify native plant species, quantities, size, spacing, or density; source of plant materials or seeds; timing, season, water, and nutrient requirements for planting; and where appropriate, measures to protect plants from predation.
    - c. Water-quality parameters, water source, water depths, water-control structures, and water-level maintenance practices needed to achieve the necessary hydrologic conditions.
  5. A 5-year monitoring, maintenance, and replacement program shall be included in all plans. At a minimum, a project applicant shall provide an annual report that documents milestones, successes, problems, and contingency actions. Photographic monitoring stations shall be established and photographs shall be used to monitor the replacement wetland.
  6. A project applicant shall demonstrate sufficient fiscal, technical, and administrative competence to successfully execute a wetlands compensation plan.
- I. Wetlands enhancement projects shall be consistent with Section 40.240.530(H).
- J. Emergency/Disaster Response Actions
1. Emergency/disaster response actions occurring within a buffer zone of wetlands shall be reviewed by the Washington Department of Fish and Wildlife. State biologists will help determine if emergency/disaster response actions have affected or have a potential to affect these wetland areas or their buffer zones. State biologists shall respond within 15 days of the date the application is mailed.
  2. When emergency/disaster response activities occur within wetlands or buffer zones, the applicant shall demonstrate the following:
    - a. All reasonable measures have been applied to ensure that the response actions have resulted in the minimum feasible alteration or destruction of the functions, existing contours, vegetation, fish and wildlife resources, and hydrology of the wetland areas.

- b. Areas disturbed by response activities and associated development will be rehabilitated to the maximum extent practicable.
- 3. Impacts to wetlands and their buffers will be offset through mitigation and restoration to the greatest extent practicable. Mitigation and restoration efforts shall use native vegetation, and restore natural functions, contours, vegetation patterns hydrology and fish and wildlife resources to the maximum extent practicable.
- 4. If the responsible official, in consultation with the Washington Department of Fish and Wildlife, determines that the emergency/disaster response actions had minor effects on the aquatic area or its buffer zone that could be eliminated with simple modifications, a letter shall be sent to the project applicant that describes the effects and measures that need to be taken to eliminate them. The state biologist, or a Forest Service natural resource advisor (as available) in consultation with the state biologist, shall visit the site in order to make this determination. If the project applicant accepts these recommendations, the responsible official shall incorporate them into its development review order and the aquatic area protection process may conclude.
- 5. Unless addressed through guideline (4) of this subsection, mitigation and restoration efforts shall be delineated in a Rehabilitation Plan. Rehabilitation Plans shall satisfy guidelines (1) and (2) in Section 40.240.540(H), Rehabilitation and Enhancement Plans. Rehabilitation Plans shall also satisfy the following:
  - a. Plans shall include a plan view and cross-sectional drawing at a scale that adequately depicts site rehabilitation efforts. Plans will illustrate final site topographic contours that emulate the surrounding natural landscape.
  - b. Planting plans shall be included that specify native plant species to be used, specimen quantities, and plant locations.
  - c. The project applicant shall be responsible for the successful rehabilitation of all areas disturbed by emergency/disaster response activities.

#### **40.240.540 GENERAL MANAGEMENT AREA STREAM, POND, LAKE AND RIPARIAN AREA REVIEW CRITERIA**

- A. Stream, Pond, and Lake Boundaries and Site Plans for Review Uses in Aquatic and Riparian Areas
  - 1. If a proposed use would be in a stream, pond, lake or their buffer zones, the project applicant shall be responsible for determining the exact location of the ordinary high watermark or normal pool elevation.
  - 2. In addition to the information required in all site plans, site plans for proposed uses in streams, ponds, lakes, and their buffer zones shall include:
    - a. a site plan map prepared at a scale of 1 inch equals 100 feet (1:1,200), or a scale providing greater detail;
    - b. the exact boundary of the ordinary high watermark or normal pool elevation and prescribed buffer zone; and
    - c. a description of actions that would alter or destroy the stream, pond, lake, or riparian area.
- B. Uses allowed outright in streams, ponds, lakes, and their buffer zones.
  - 1. This section shall not apply to proposed uses that would occur in those portions of the main stem of the Columbia River that adjoin the Urban Area.
  - 2. The following uses are allowed in streams, ponds, lakes, and their buffer zones without review, if they:
    - a. Are conducted using best management practices;
    - b. Do not require structures, grading, draining, flooding, ditching, vegetation removal, or dredging beyond the extent specified below; and
    - c. Comply with all applicable federal, state, and county laws:
      - (1) Fish and wildlife management uses conducted by federal, state, or Indian tribal resource agencies.
      - (2) Soil, water, and vegetation conservation uses that protect water quality, natural drainage, and fish and wildlife habitat of streams, ponds, lakes, and riparian areas.
      - (3) Low-intensity recreation uses, including hunting, fishing, trapping, bird watching, hiking, boating, swimming, and canoeing.
      - (4) Non-commercial harvesting of wild crops, such as ferns, moss, berries, tubers, tree fruits, and seeds in a manner that does not injure natural plant reproduction or impact sensitive plant species.

- (5) Agriculture, except new cultivation. Any operation that would cultivate land that has not been cultivated, or has lain idle, for more than 5 years shall be considered new cultivation and shall require a review use permit. For this guideline cultivation and vegetation removal may be allowed in conjunction with a home garden.
  - (6) Ditching, filling, dredging, or grading conducted solely for the purpose of repairing and maintaining existing irrigation and drainage systems necessary for agriculture, provided that such uses are not undertaken to cultivate lands that have not been cultivated, or have lain idle, for more than 5 years.
  - (7) Commercial fishing and trapping.
  - (8) Educational uses and scientific research.
  - (9) Navigation aids, including structures covered by Section 17(a)(3) of the Scenic Area Act.
  - (10) Forest practices that do not violate conditions of approval for other approved uses.
  - (11) Repair, maintenance, and operation of existing and serviceable structures, trails, roads, railroads and utility facilities.
- C. The following uses may be allowed in streams, ponds, lakes and riparian areas when approved pursuant Section 40.240.540(E), and reviewed under the applicable provisions of Section 40.240.490 through 40.240.590:
- 1. The modification, expansion, replacement, or reconstruction of serviceable structures, provided that such actions would not:
    - a. Increase the size of an existing structure by more than one hundred percent (100%);
    - b. Result in a loss of water quality, natural drainage, and fish and wildlife habitat; or
    - c. Intrude further into a stream, pond, lake, or buffer zone. New structures shall be considered intruding further into a stream, pond, lake, or buffer zone if any portion of the structure is located closer to the stream, pond, lake, or buffer zone than the existing structure.
  - 2. The construction of minor water-related recreation structures that are available for public use. Structures in this category shall be limited to boardwalks; trails and paths, provided their surface is not constructed of impervious materials; observation decks, and interpretative aids, such as kiosks and signs.
  - 3. The construction of minor water-dependent structures that are placed on pilings, if the pilings allow unobstructed flow of water and are not placed so close together that they effectively convert an aquatic area to dry land. Structures in this category shall be limited to public and private docks and boat houses, and fish and wildlife management structures that are constructed by federal, state, or tribal resource agencies.
- D. Uses not listed in Sections 40.240.540(B) and (C) may be allowed in streams, ponds, lakes, and riparian areas, when approved pursuant to Section 40.240.540(F) and reviewed under the applicable provisions of Section 40.240.490 through 40.240.590.
- E. Applications for modifications to serviceable structures and minor water-dependent and water-related structures in aquatic and riparian areas shall demonstrate that:
- 1. Practicable alternatives to locating the structure outside of the stream, pond, lake, or buffer zone and/or minimizing the impacts of the structure do not exist;
  - 2. All reasonable measures have been applied to ensure that the structure will result in the minimum feasible alteration or destruction of water quality, natural drainage, and fish and wildlife habitat of streams, ponds, lakes, and riparian areas;
  - 3. The structure will be constructed using best management practices;
  - 4. Areas disturbed during construction of the structure will be rehabilitated to the maximum extent practicable; and
  - 5. The structure complies with all applicable federal, state, and local laws.
- F. Applications for all other Review Uses in wetlands streams, ponds, and lakes shall demonstrate that:
- 1. The proposed use is water-dependent, or is not water-dependent but has no practicable alternative as determined by Section 40.240.530(F)(1), substituting the term stream, pond, lake, or riparian area as appropriate.
  - 2. The proposed use is in the public interest as determined by Section 40.240.530(F)(2), substituting the term stream, pond, lake, or riparian area as appropriate.

3. Measures have been applied to ensure that the proposed use results in minimum feasible impacts to water quality, natural drainage, and fish and wildlife habitat of the affected stream, pond, lake, and/or buffer zone. At a minimum, the following mitigation measures shall be considered when new uses are proposed in streams, ponds, lakes, and buffer zones:
  - a. Construction shall occur during periods when fish and wildlife are least sensitive to disturbance. The Washington Department of Fish and Wildlife shall evaluate specific proposals and specify periods for in-water work.
  - b. All natural vegetation shall be retained to the greatest extent practicable, including aquatic and riparian vegetation.
  - c. Nonstructural controls and natural processes shall be used to the greatest extent practicable.
  - d. Bridges, roads, pipeline and utility corridors, and other water crossings shall be minimized and should serve multiple purposes and properties.
  - e. Stream channels should not be placed in culverts unless absolutely necessary for property access. Bridges are preferred for water crossings to reduce disruption to streams, ponds, lakes, and their banks. When culverts are necessary, oversized culverts with open bottoms that maintain the channel's width and grade should be used.
  - f. Temporary and permanent control measures should be applied to minimize erosion and sedimentation when riparian areas are disturbed, including slope netting, berms and ditches, tree protection, sediment barriers, infiltration systems, and culverts.
4. Groundwater and surface-water quality will not be degraded by the proposed use.
5. Those portions of a proposed use that are not water-dependent or have a practicable alternative will be located outside of stream, pond, and lake buffer zones.
6. The proposed use complies with all applicable federal, state, and county laws.
7. Unavoidable impacts to aquatic and riparian areas will be offset through rehabilitation and enhancement. Rehabilitation and enhancement shall achieve no net loss of water quality, natural drainage, and fish and wildlife habitat of the affected stream, pond, lake, and/or buffer zone. When a project area has been disturbed in the past, it shall be rehabilitated to its natural condition to the maximum extent practicable. When a project area cannot be completely rehabilitated, such as when a boat launch permanently displaces aquatic and riparian areas, enhancement shall also be required. The following rehabilitation and enhancement guidelines shall apply:
  - a. Rehabilitation and enhancement projects shall be conducted in accordance with a rehabilitation and enhancement plan.
  - b. Natural hydrologic conditions shall be replicated, including current patterns, circulation, velocity, volume, and normal water fluctuation.
  - c. Natural stream channel and shoreline dimensions shall be replicated, including depth, width, length, cross-sectional profile, and gradient.
  - d. The bed of the affected aquatic area shall be rehabilitated with identical or similar materials.
  - e. Riparian areas shall be rehabilitated to their original configuration, including slope and contour.
  - f. Fish and wildlife habitat features shall be replicated, including pool-riffle ratios, substrata, and structures. Structures include large woody debris and boulders.
  - g. Stream channels and banks, shorelines, and riparian areas shall be replanted with native plant species that replicate the original vegetation community.
  - h. Rehabilitation and enhancement efforts shall be completed no later 90 days after the aquatic area or buffer zone has been altered or destroyed, or as soon thereafter as is practicable.
  - i. Three years after an aquatic area or buffer zone is rehabilitated or enhanced, at least 75 percent of the replacement vegetation must survive. The owner shall monitor the replacement vegetation and take corrective measures to satisfy this guideline.

G. Stream, Pond, and Lake Buffer Zones

1. Buffer zones shall generally be measured landward from the ordinary high water-mark on a horizontal scale that is perpendicular to the ordinary high water-mark. On the main stem of the Columbia River above Bonneville Dam, buffer zones shall be measured landward from the normal pool elevation of the Columbia River. The following buffer zone widths shall be required:



- a. Streams verified by state or federal resource management agencies as habitat for species recognized to be threatened or endangered by the U.S. Fish and Wildlife Service, Washington Department of Fish and Wildlife, or Washington Department of Natural Resources: 150 feet.
    - b. Streams used by anadromous or resident fish (tributary fish habitat), special streams, intermittent streams that include year-round pools, and perennial streams: 100 feet.
    - c. Intermittent streams, provided they are not used by anadromous or resident fish: 50 feet.
    - d. Ponds and lakes: Buffer zone widths shall be based on dominant vegetative community as determined by Section 40.240.530(G)(2), substituting the term pond or lake as appropriate.
  2. Except as otherwise allowed, buffer zones shall be retained in their natural condition.
  3. When a buffer zone is disturbed by a new use, it shall be replanted with native plant species.
  4. Determining the exact location of the ordinary high watermark or normal pool elevation shall be the responsibility of the project applicant. The responsible official may verify the accuracy of and may render adjustments to, an ordinary high water-mark or normal pool delineation. In the event the adjusted boundary delineation is contested by the applicant, the responsible official shall, at the project applicant's expense, obtain professional services to render a final delineation
- H. Rehabilitation and Enhancement Plans. Rehabilitation and enhancement plans shall be prepared when a project applicant is required to rehabilitate or enhance a stream, pond, lake and/or buffer area. They shall satisfy the following guidelines:
1. Rehabilitation and enhancement plans are the responsibility of the project applicant; they shall be prepared by qualified professionals, such as fish or wildlife biologists.
  2. All plans shall include an assessment of the physical characteristics and natural functions of the affected stream, pond, lake, and/or buffer zone. The assessment shall include hydrology, flora, and fauna.
  3. Plan view and cross-sectional, scaled drawings; topographic survey data, including elevations at contour intervals of at least 2 feet, slope percentages, and final grade elevations; and other technical information shall be provided in sufficient detail to explain and illustrate:
    - a. Soil and substrata conditions, grading and excavation, and erosion and sediment control needed to successfully rehabilitate and enhance the stream, pond, lake, and buffer zone.
    - b. Planting plans that specify native plant species, quantities, size, spacing, or density; source of plant materials or seeds; timing, season, water, and nutrient requirements for planting; and where appropriate, measures to protect plants from predating.
    - c. Water-quality parameters, construction techniques, management measures, and design specifications needed to maintain hydrologic conditions and water quality.
  4. A 3-year monitoring, maintenance, and replacement program shall be included in all rehabilitation and enhancement plans. At a minimum, a project applicant shall prepare an annual report that documents milestones, successes, problems, and contingency actions. Photographic monitoring shall be used to monitor all rehabilitation and enhancement efforts.
  5. A project applicant shall demonstrate sufficient fiscal, administrative, and technical competence to successfully execute and monitor a rehabilitation and enhancement plan.
- I. Wetlands enhancement projects shall be consistent with Section 40.240.540(H).
- J. Emergency/Disaster Response Actions
1. Emergency/disaster response actions occurring within a buffer zone of streams, ponds, lakes, or riparian areas shall be reviewed by the Washington Department of Fish and Wildlife. State biologists will help determine if emergency/disaster response actions have affected or have a potential to affect these wetland areas or their buffer zones. State biologists shall respond within 15 days of the date the application is mailed.
  2. When emergency/disaster response activities occur within streams, ponds, lakes or the buffer zones of these areas, the applicant shall demonstrate the following:
    - a. All reasonable measures have been applied to ensure that the response actions have resulted in the minimum feasible alteration or destruction of the functions, existing contours, vegetation, fish and wildlife resources, and hydrology of the streams, ponds, lakes or riparian areas.
    - b. Areas disturbed by response activities and associated development will be rehabilitated to the maximum extent practicable.

3. Impacts to streams, ponds, lakes, riparian areas and their buffers will be offset through mitigation and restoration to the greatest extent practicable. Mitigation and restoration efforts shall use native vegetation, and restore natural functions, contours, vegetation patterns hydrology and fish and wildlife resources to the maximum extent practicable.
4. If the responsible official, in consultation with the Washington Department of Fish and Wildlife, determine that the emergency/disaster response actions had minor effects on the stream, pond, lake, riparian area or its buffer zone that could be eliminated with simple modifications, a letter shall be sent to the project applicant that describes the effects and measures that need to be taken to eliminate them. The state biologist, or a Forest Service natural resource advisor (as available) in consultation with the state biologist, shall visit the site in order to make this determination. If the project applicant accepts these recommendations, the responsible official shall incorporate them into its development review order and the aquatic area protection process may conclude.
5. Unless addressed through guideline (4) of this subsection, mitigation and restoration efforts shall be delineated in a Rehabilitation Plan. Rehabilitation Plans shall satisfy guidelines (1) and (2) in Section 40.240.540(A), Rehabilitation and Enhancement Plans. Rehabilitation Plans shall also satisfy the following:
  - a. Plans shall include a plan view and cross-sectional drawing at a scale that adequately depicts site rehabilitation efforts. Plans will illustrate final site topographic contours that emulate the surrounding natural landscape.
  - b. Planting plans shall be included that specify native plant species to be used, specimen quantities, and plant locations.
  - c. The project applicant shall be responsible for the successful rehabilitation of all areas disturbed by emergency/disaster response activities.

#### **40.240.550 GENERAL MANAGEMENT AREA SENSITIVE WILDLIFE REVIEW CRITERIA**

- A. Sensitive Wildlife Areas and Sites and Site Plans Near Sensitive Wildlife
  1. Proposed uses shall not adversely affect sensitive wildlife areas or sensitive wildlife sites:
    - a. "Sensitive wildlife areas" in the Columbia Gorge means the following land and water areas that appear in the wildlife inventory map prepared and maintained by the Gorge Commission:
      - (1) Bald eagle habitat
      - (2) Deer and elk winter range
      - (3) Elk habitat
      - (4) Mountain goat habitat
      - (5) Peregrine falcon habitat
      - (6) Pika colony area
      - (7) Piloted woodpecker habitat
      - (8) Pine marten habitat
      - (9) Shallow water fish habitat (Columbia R.)
      - (10) Special streams
      - (11) Special habitat area
      - (12) Spotted owl habitat
      - (13) Sturgeon spawning area
      - (14) Tributary fish habitat
      - (15) Turkey habitat
      - (16) Waterfowl area
      - (17) Western pond turtle habitat
    - b. "Sensitive wildlife sites" means sites that are used by animal species that are
      - (1) listed as endangered or threatened pursuant to federal or state endangered species acts; and
      - (2) listed as endangered, threatened, sensitive, or candidate by the Washington Fish and Wildlife Commission, considered to be of special interest to the public (limited to great blue heron, osprey, golden eagle, and prairie falcon).
  2. In addition to the information required in all site plans, site plans for uses within 1,000 feet of a sensitive wildlife area or site shall include a map prepared at a scale of 1-inch equals 100 feet (1: 1,200), or a scale providing greater detail.

- B. The following uses may be allowed within 1,000 feet of sensitive wildlife areas and sites without review, if they do not involve new structures, vegetation removal, or actions that disturb the ground, such as grading, or ditching beyond the extent specified below:
1. Agriculture, except new cultivation. Any operation that would cultivate land that has not been cultivated, or has lain idle, for more than 5 years shall be considered new cultivation.
  2. Ditching, filling, dredging, or grading conducted solely for the purpose of repairing and maintaining existing irrigation and drainage systems necessary for agriculture, provided that such uses are not undertaken to cultivate lands that have not been cultivated, or lain idle, for more than 5 years.
  3. Forest practices that do not violate conditions of approval for other approved uses.
  4. Repair, maintenance, and operation of existing and serviceable structures, trails, roads, railroads and utility facilities.
  5. Fish and wildlife management uses conducted by federal, state, or Indian tribal resource agencies.
- C. Field Survey. A field survey to identify sensitive wildlife areas or sites shall be required for:
1. Land divisions that create four or more parcels;
  2. Recreation facilities that contain parking areas for more than 10 cars, overnight camping facilities, boat ramps, and visitor information and environmental education facilities;
  3. Public transportation facilities that are outside improved rights-of-way;
  4. Electric facilities, lines, equipment, and appurtenances that are 33 kilovolts or greater; and
  5. Communications, water and sewer, and natural gas transmission (as opposed to distribution) lines, pipes, equipment, and appurtenances. Field surveys shall cover all areas affected by the proposed use or recreation facility. They shall be conducted by a professional wildlife biologist hired by the project applicant. All sensitive wildlife areas and sites discovered in a project area shall be described and shown on the site plan map.
- D. Uses not listed in Section 40.240.550(B) may be allowed within 1,000 feet of a sensitive wildlife area or site, when approved pursuant to Section 40.240.550(E) and reviewed under the applicable provisions of Sections 40.240.490 through 40.240.590.
- E. Uses that are proposed within 1,000 feet of a sensitive wildlife area or site shall be reviewed as follows:
1. Site plans shall be submitted to the Washington Department of Fish and Wildlife by the responsible official. State wildlife biologists will review the site plan and their field survey records and:
    - a. Identify/verify the precise location of the wildlife area or site,
    - b. Ascertain whether the wildlife area or site is active or abandoned, and
    - c. Determine if the proposed use may compromise the integrity of the wildlife area or site or occur during the time of the year when wildlife species are sensitive to disturbance, such as nesting or rearing seasons. In some instances, state wildlife biologists may conduct field surveys to verify the wildlife inventory and assess the potential effects of a proposed use.
  2. The following factors may be considered when site plans are reviewed:
    - a. Biology of the affected wildlife species.
    - b. Published guidelines regarding the protection and management of the affected wildlife species. The Washington Department of Fish and Wildlife has prepared guidelines for a variety of species, including the western pond turtle, the peregrine falcon, and the Larch Mountain salamander (Rodrick and Milner, 1991).
    - c. Physical characteristics of the subject parcel and vicinity, including topography and vegetation.
    - d. Historic, current, and proposed uses in the vicinity of the sensitive wildlife area or site.
    - e. Existing condition of the wildlife area or site and the surrounding habitat and the useful life of the area or site.
  3. The wildlife protection process may terminate if the responsible official, in consultation with the Washington Department of Fish and Wildlife, determines:
    - a. The sensitive wildlife area or site is not active, or
    - b. The proposed use would not compromise the integrity of the wildlife area or site or occur during the time of the year when wildlife species are sensitive to disturbance.

4. If the responsible official, in consultation with the Washington Department of Fish and Wildlife, determines that the proposed use would have only minor effects on the wildlife area or site that could be eliminated by simply modeling the site plan or regulating the timing of new uses, a letter shall be sent to the applicant that describes the effects and measures needed to eliminate them. If the project applicant accepts these recommendations, the responsible official will incorporate them into the development review order and the wildlife protection process may conclude.
  5. The project applicant shall prepare a wildlife management plan if the responsible official, in consultation with the Washington Department of Fish and Wildlife, determines that the proposed use would adversely affect a sensitive wildlife area or site and the effects of the proposed use cannot be eliminated through site plan modifications or project timing.
  6. The responsible official shall submit a copy of all field surveys and wildlife management plans to Washington Department of Fish and Wildlife. The Washington Department of Fish and Wildlife will have 20 days from the date that a field survey or management plan is mailed to submit written comments to the responsible official. The responsible official shall record and address any written comments submitted by the Washington Department of Fish and Wildlife in the land use review order. Based on the comments from the Washington Department of Fish and Wildlife, the responsible official will make a final decision on whether the proposed use would be consistent with the wildlife policies and guidelines. If the final decision contradicts the comments submitted by the Washington Department of Fish and Wildlife, the responsible official shall justify how the opposing conclusion was reached. The responsible official shall require the applicant to revise the wildlife management plan as necessary to ensure that the proposed use would not adversely affect a sensitive wildlife area or site.
- F. Wildlife Management Plans. Wildlife management plans shall be prepared when a proposed use is likely to adversely affect a sensitive wildlife area or site. Their primary purpose is to document the special characteristics of a project site and the habitat requirements of affected wildlife species. This information provides a basis for the project applicant to redesign the proposed use in a manner that protects sensitive wildlife areas and sites, maximizes his/her development options, and mitigates temporary impacts to the wildlife area or site and/or buffer zone. Wildlife management plans shall meet the following guidelines:
1. Wildlife management plans shall be prepared by a professional wildlife biologist hired by the project applicant.
  2. All relevant background information shall be documented and considered, including biology of the affected species, published protection and management guidelines, physical characteristics of the subject parcel, past and present use of the subject parcel, and useful life of the wildlife area or site.
  3. The core habitat of the sensitive wildlife species shall be delineated. It shall encompass the sensitive wildlife area or site and the attributes, or key components, that are essential to maintain the long-term use and integrity of the wildlife area or site.
  4. A wildlife buffer zone shall be employed. It shall be wide enough to ensure that the core habitat is not adversely affected by new uses, or natural forces, such as fire and wind. Buffer zones shall be delineated on the site plan map and shall reflect the physical characteristics of the project site and the biology of the affected species.
  5. The size, scope, configuration, or density of new uses within the core habitat and the wildlife buffer zone shall be regulated to protect sensitive wildlife species. The timing and duration of all uses shall also be regulated to ensure that they do not occur during the time of the year when wildlife species are sensitive to disturbance. The following shall apply:
    - a. New uses shall generally be prohibited within the core habitat. Exceptions may include uses that have temporary and negligible effects, such as the installation of minor underground utilities or the maintenance of existing structures. Low intensity, non-destructive uses may be conditionally authorized in the core habitat.
    - b. Intensive uses shall be generally prohibited in wildlife buffer zones. Such uses may be conditionally authorized when a wildlife area or site is inhabited seasonally, provided they will have only temporary effects on the wildlife buffer zone and rehabilitation and/or enhancement will be completed before a particular species returns.
  6. Rehabilitation and/or enhancement shall be required when new uses are authorized within wildlife buffer zones. When a buffer zone has been altered or degraded in the past, it shall be rehabilitated to its natural condition to the maximum extent practicable. When complete rehabilitation is not possible, such as when

new structures permanently displace wildlife habitat, enhancement shall also be required. Enhancement shall achieve a no net loss of the integrity of the wildlife area or site. Rehabilitation and enhancement actions shall be documented in the wildlife management plan and shall include a map and text.

7. The applicant shall prepare and implement a 3-year monitoring plan when the affected wildlife area or site is occupied by a species that is listed as endangered or threatened pursuant to federal or state wildlife lists. It shall include an annual report and shall track the status of the wildlife area or site and the success of rehabilitation and/or enhancement actions. At the end of 3 years, rehabilitation and enhancement efforts may conclude if they are successful. In instances where rehabilitation and enhancement efforts have failed, the monitoring process shall be extended until the applicant satisfies the rehabilitation and enhancement guidelines.

G. New fences in deer and elk winter range.

1. New fences in deer and elk winter range shall be allowed only when necessary to control livestock or exclude wildlife from specified areas, such as gardens or sensitive wildlife sites. The areas fenced shall be the minimum necessary to meet the immediate needs of the project applicant.
2. New and replacement fences that are allowed in winter range shall comply with the guidelines in Specifications for Structural Range Improvements (Sanderson, et. al. 1990), as summarized below, unless the applicant demonstrates the need for an alternative design:
  - a. To make it easier for deer to jump over the fence, the top wire shall not be more than 42 inches high.
  - b. The distance between the top two wires is critical for adult deer because their hind legs often become entangled between these wires. A gap of at least 10 inches shall be maintained between the top two wires to make it easier for deer to free themselves if they become entangled.
  - c. The bottom wire shall be at least 16 inches above the ground to allow fawns to crawl under the fence. It should consist of smooth wire because barbs often injure animals as they crawl under fences.
  - d. Stays, or braces placed between strands of wire, shall be positioned between fences posts where deer are most likely to cross. Stays create a more rigid fence, which allows deer a better chance to wiggle free if their hind legs become caught between the top two wires.
3. Woven wire fences may be authorized only when it is clearly demonstrated that such a fence is required to meet specific and immediate needs, such as controlling hogs and sheep.
4. Any fencing permanently erected within deer and elk winter range, as a result of an emergency/disaster response, shall comply with the guidelines in Section 40.240.550(G)(2).

H. Emergency/disaster response actions

1. If the responsible official, in consultation with the Washington Department of Fish and Wildlife, determines that the emergency/disaster response activities had minor effects on the wildlife area or site that could be eliminated with simple modifications, a letter shall be sent to the project applicant that describes the effects and measures that need to be taken to eliminate them. The state wildlife biologist, or a Forest Service natural resource advisor (as available) in consultation with the state wildlife biologist, shall visit the site in order to make this determination. If the project applicant accepts these recommendations, the responsible official shall incorporate them into the development review order and the wildlife protection process may conclude.
2. If the responsible official, in consultation with the Washington Department of Fish and Wildlife, determines that the emergency/disaster response activities had adverse effects on a sensitive wildlife area or site, the project applicant shall prepare a Wildlife Management Plan. Wildlife Management Plans shall comply with the requirements of Section 40.240.550(F). Upon completion of the Wildlife Management Plan, responsible official shall:
  - a. Submit a copy of the Wildlife Management Plan to the Washington Department of Fish and Wildlife for review. The Washington Department of Fish and Wildlife will have 15 days from the date that a management plan is mailed to submit written comments to the responsible official.
  - b. Record any written comments submitted by the Washington Department of Fish and Wildlife in its development review order. Based on these comments, the responsible official shall make a final decision on whether the proposed use would be consistent with the wildlife policies and guidelines. If the final decision contradicts the comments submitted by the Washington Department of Fish and Wildlife, the responsible official shall justify how it reached an opposing conclusion.

- c. Require the project applicant to revise the wildlife management plan necessary to ensure that the proposed use would not adversely affect a sensitive wildlife area or site.

#### **40.240.560 GENERAL MANAGEMENT AREAS RARE PLANT REVIEW CRITERIA**

- A. Sensitive Plants and Site Plans for Review Uses Near Sensitive Plants
  - 1. Proposed uses shall not adversely affect sensitive plants. "Sensitive plants" means plant species that are
    - a. Endemic to the Columbia River Gorge and vicinity, or
    - b. Listed as endangered or threatened pursuant to federal or state endangered species acts, or
    - c. Listed as endangered, threatened, or sensitive by the Oregon – Washington Natural Heritage program.
  - 2. In addition to the information required in a site plans, site plans for uses within 1,000 feet of a sensitive plant shall include a map prepared at a scale of 1-inch equals 100 feet (1: 1,200), or a scale providing greater detail.
- B. The following uses may be allowed within 200 feet of a sensitive plant without review, if they do not involve new structures, vegetation removal, or actions that disturb the ground, such as grading or ditching beyond the extent specified below:
  - 1. Low-intensity recreation uses, including hunting, fishing, trapping, native plant study, bird watching, boating, swimming, and hiking. Regarding sensitive plants, horseback riding is not considered a low-intensity use.
  - 2. Agriculture, except new cultivation. Any operation that would cultivate land that has not been cultivated, or has lain idle, for more than 5 years shall be considered new cultivation.
  - 3. Ditching, tilling, dredging, or grading conducted solely for the purpose of repairing and maintaining existing irrigation and drainage systems necessary for agriculture, provided that such uses are not undertaken to cultivate lands that have not been cultivated, or have lain idle, for more than 5 years.
  - 4. Forest practices that do not violate conditions of approval for other approved uses.
  - 5. Repair, maintenance, and operation of existing and serviceable structures, trails, roads, railroads and utility facilities.
- C. Field Survey. A field survey to identify sensitive plants shall be required for:
  - 1. Land divisions that create four or more parcels;
  - 2. Recreation facilities that contain parking areas for more than 10 cars, overnight camping facilities, boat ramps, and visitor information and environmental education facilities;
  - 3. Public transportation facilities that are outside improved rights-of-way;
  - 4. Electric facilities, lines, equipment, and appurtenances that are 33 kilovolts or greater, and
  - 5. Communications, water and sewer, and natural gas transmission (as opposed to distribution) lines, pipes, equipment, and appurtenances;
  - 6. Field surveys shall cover all areas affected by the proposed use or recreation facility. They shall be conducted by a person with recognized expertise in botany or plant ecology hired by the project applicant. Field surveys shall identify the precise location of the sensitive plants and delineate a 200 foot buffer zone. The results of a field survey shall be shown on the site plan map.
- D. Uses not listed in Section 40.240.560(B) may be allowed within 1,000 feet of a sensitive plant, when approved pursuant to Section 40.240.550(E), and reviewed under the applicable provisions of Sections 40.240.490 through 40.240.590.
- E. Uses that are proposed within 1,000 feet of a sensitive plant shall be reviewed as follows:
  - 1. Site plans shall be submitted to the Washington Natural Heritage Program by the responsible official. The Natural Heritage Program staff will review the site plan and their field survey records. They will identify the precise location of the affected plants and delineate a 200-foot buffer zone on the project applicant's site plan. If the field survey records of the state heritage program are inadequate, the project applicant shall hire a person with recognized expertise in botany or plant ecology to ascertain the precise location of the affected plants.

2. The rare plant protection process may conclude if the responsible official, in consultation with the Natural Heritage Program staff, determines that the proposed use would be located outside of a sensitive plant buffer zone.
  3. New uses shall be prohibited within sensitive plant species buffer zones, except those listed in Section 40.240.560(B).
  4. If a proposed use must be allowed within a sensitive plant buffer area in accordance with Section 40.240.190(G), the project applicant shall prepare a protection and rehabilitation plan pursuant to Section 40.240.560(F).
  5. The responsible official shall submit a copy of all field surveys and protection and rehabilitation plans to the Washington Natural Heritage Program. The Natural Heritage Program staff will have 20 days from the date that a field survey is mailed to submit written comments to the responsible official. The responsible official shall record and address any written comments submitted by the Natural Heritage Program staff in the land use review order. Based on the comments from the Natural Heritage Program staff, the responsible official will make a final decision on whether the proposed use would be consistent with the rare plant policies and guidelines. If the final decision contradicts the comments submitted by the Natural Heritage Program staff, the responsible official shall justify how the opposing conclusion was reached.
- F. Protection and Rehabilitation Plans. Protection and rehabilitation plans shall minimize and offset unavoidable impacts that result from a new use that occurs within a sensitive plant buffer zone as the result of a variance. Protection and rehabilitation plans shall meet the following guidelines:
1. Protection and rehabilitation plans shall be prepared by a professional botanist or plant ecologist hired by the project applicant.
  2. Construction, protection, and rehabilitation activities shall occur during the time of the year when ground disturbance will be minimized and protection, rehabilitation, and replacement efforts will be maximized.
  3. Sensitive plants that will be destroyed shall be transplanted or replaced, to the maximum extent practicable. Replacement is used here to mean the establishment of a particular plant species in areas of suitable habitat not affected by new uses. Replacement may be accomplished by seeds, cuttings, or other appropriate methods. Replacement shall occur as close to the original plant site as practicable. The project applicant shall ensure that at least 75 percent of the replacement plants survive 3 years after the date they are planted.
  4. Sensitive plants and their surrounding habitat that will not be altered or destroyed shall be protected and maintained. Appropriate protection and maintenance techniques shall be applied, such as fencing, conservation easements, livestock management, and noxious weed control.
  5. Habitat of a sensitive plant that will be affected by temporary uses shall be rehabilitated to a natural condition.
  6. Protection efforts shall be implemented before construction activities begin. Rehabilitation efforts shall be implemented immediately after the plants and their surrounding habitat are disturbed.
  7. Protection and rehabilitation plans shall include maps, photographs, and text. The text shall:
    - a. Describe the biology of sensitive plant species that will be affected by a proposed use.
    - b. Explain the techniques that will be used to protect sensitive plants and their surrounding habitat that will not be altered or destroyed.
    - c. Describe the rehabilitation and enhancement actions that will minimize and offset the impacts that will result from a proposed use.
    - d. Include a 3-year monitoring, maintenance, and replacement program. The project applicant shall prepare and submit to the responsible official an annual report that documents milestones, successes, problems, and contingency actions.
- G. Sensitive Plant Buffer Zones
1. A 200-foot buffer zone shall be maintained around sensitive plants. Buffer areas shall remain in an undisturbed, natural condition.
  2. Buffer zones may be reduced if a project applicant demonstrates that intervening topography, vegetation, man-made features, or natural plant habitat boundaries negate the need for a 200 foot radius. Under no circumstances shall the buffer zone be less than 25 feet.
  3. Requests to reduce buffer areas shall be considered if a professional botanist or plant ecologist hired by the project applicant:
    - a. Identifies the precise location of the sensitive plants,

- b. Describes the biology of the sensitive plants, and
- c. Demonstrates that the proposed use will not have any negative effects, either direct or indirect, on the affected plants and the surrounding habitat that is vital to their long-term survival.
- 4. All requests shall be prepared as a written report. Published literature regarding the biology of the affected plants and recommendations regarding their protection and management shall be cited. The report shall include detailed maps and photographs.
- 5. The responsible official shall submit all requests to reduce sensitive plant species buffer areas to the Washington Natural Heritage Program. The Natural Heritage Program staff will have 20 days from the date that such a request is mailed to submit written comments to the responsible official. The responsible official shall record and address any written comments submitted by the Washington Natural Heritage Program in the development review order. Based on the comments from the Washington Natural Heritage Program, the responsible official will make a final decision on whether the reduced buffer area is justified. If the final decision contradicts the comments submitted by the Natural Heritage Program staff, the responsible official shall justify how the opposing conclusion was reached.

#### H. Emergency/disaster response actions

- 1. Emergency/disaster response actions occurring within 1,000 feet of a sensitive plant shall be reviewed by the Washington Natural Heritage Program. State heritage staff will help determine if emergency/disaster response action have occurred within the buffer zone of a rare plant.
- 2. Site plans for emergency/disaster response sites shall be submitted to the Washington Natural Heritage Program by the responsible official. State natural heritage staff will, within 15 days from the date the application is mailed, identify the location of the affected plants and delineate a 200 foot buffer zone on the applicant's site plan.
- 3. The rare plant protection process may conclude if the responsible official, in consultation with the state natural heritage program, determines that emergency/disaster response activities occurred outside of a rare plant buffer zone.
- 4. If the responsible official, in consultation with the Washington Natural Heritage Program, determines that the emergency/disaster response activities had minor effects on rare plants or the rare plant buffer zone, a letter shall be sent to the project applicant that describes the effects and measures that need to be taken to eliminate them. The state natural heritage staff, or a Forest Service natural resources advisor (as available) in consultation with the state natural heritage staff, shall visit the site in order to make this determination. If the project applicant accepts these recommendations, the responsible official shall incorporate them into its development review order and the rare plant protection process may conclude.
- 5. If emergency/disaster response activities occurred within a rare plant buffer zone that had adverse affects on rare plants or their buffer zone, the project applicant shall prepare a protection and rehabilitation plan that meets the requirements provided in Section 40.240.560(F), Protection and Rehabilitation Plans.
- 6. The responsible official shall submit a copy of all protection and rehabilitation plans to the Washington Natural Heritage Program for review. The Washington Natural Heritage Program will have 15 days from the date the protection and rehabilitation plan is mailed to submit written comments to the responsible official. The responsible official shall record any written comments submitted by the Washington Natural Heritage Program in its development review order. Based on these comments the responsible official shall make a final decision on whether the proposed use would be consistent with the rare plant policies and guidelines. If the final decision contradicts the comments submitted by the Washington Natural Heritage Program, the responsible official shall justify how it reached an opposing conclusion.
- 7. The responsible official shall require the project applicant to revise the protection and rehabilitation plan as necessary to ensure that the proposed use would not adversely affect a rare plant site.

#### **40.240.570 SPECIAL MANAGEMENT AREAS NATURAL RESOURCE REVIEW CRITERIA**

All new developments and land uses shall be evaluated to ensure that the natural resources on a site, or natural resources in danger of degradation or destruction from individual or cumulative off-site impacts, are protected from adverse effects. The Forest Service will provide the natural resource site evaluation and project analysis and evaluation for new uses and developments, except those sponsored by non-Forest Service federal and state agencies. Natural resources include wetlands, streams, ponds and lakes, riparian areas, wildlife and wildlife habitat areas, and rare plant and natural areas.



- A. Buffer zones shall be undisturbed unless it has been shown that no practicable alternatives exist, pursuant to Section 40.240.530(F)(1), substituting the name of the resource as appropriate. New developments and uses may only be allowed in the buffer zone upon demonstration in the natural resources mitigation plan that no adverse effects would result.
- B. The applicant's site plan shall include the following additional information to facilitate evaluation for compliance with minimum natural resource protection guidelines:
  - 1. Location of the following sites and areas. The Forest Service will provide this information to the applicant:
    - a. Sites of sensitive wildlife and sensitive plant species.
    - b. Location of riparian and wetland areas. The exact location of the wetlands boundaries shall be delineated using the procedures specified in the Federal Manual for Identifying and Delineating Jurisdictional Wetlands (Federal Interagency Committee for Wetland Delineation, 1989). Changes to this manual shall not apply to wetlands in the Special Management Area unless the Management Plan has been amended.
  - 2. A description or illustration showing the mitigation measures to control soil erosion and stream sedimentation.
- C. Site plans shall be submitted to the Forest Service, and the Washington Department of Fish and Wildlife. The site plan shall be reviewed by the Forest Service in consultation with the appropriate state or federal agency and reviewed and approved by the responsible official.
- D. Review of the site plan shall consider the following:
  - 1. Biology and habitat requirements of the flora or fauna of concern.
  - 2. Historic, current, and proposed uses in the vicinity of sensitive species, including cumulative effects.
  - 3. Existing condition of the site and the surrounding habitat and the useful life of the site.
  - 4. Physical characteristics of the subject parcel and vicinity, including topography, vegetation, and soil and hydrological characteristics.
  - 5. Minimum natural resource protection guidelines including buffer zones.
  - 6. Closure of forest practice roads necessary to protect natural resources.
  - 7. Comments from state and federal agencies.
- E. Minimum natural resource protection guidelines include:
  - 1. Sites of sensitive wildlife and sensitive plant species.
    - a. A 200-foot buffer zone shall be created for sensitive plant species.
    - b. A buffer zone for sites of sensitive wildlife species, such as nesting, roosting and perching sites, as defined by species requirements shall be as determined by a Forest Service biologist in consultation with other state or federal agency biologists.
  - 2. Riparian areas, wetlands, ponds, and lakes.
    - a. Wetlands shall not be destroyed except within roads and railroad rights-of-way as provided in Section 40.240.570(E)(2)(g). Riparian areas shall not be destroyed, except for water-dependent uses, such as boat ramps, and road construction and reconstruction. The above-stated exceptions to riparian destruction policy shall meet minimum natural resource protection standards and be reviewed for meeting resource protection guidelines.
    - b. Adding any fill or draining of wetlands is prohibited.
    - c. A minimum 200-foot buffer zone shall be created on the landward side of each wetland, pond or lake; or a wider variance from this requirement shall be determined during the site plan analysis of the wetland or riparian area and those species inhabiting the area as determined by the Forest Service biologist in consultation with state and/or federal agencies;
    - d. A 200-foot buffer zone shall be created along each fish-bearing and perennial stream.
    - e. A 50-foot buffer zone shall be created along intermittent streams.
    - f. Revegetation shall use only species native to the Columbia River Gorge, and shall provide and maintain habitat diversity beneficial to the fish, wildlife and native plants.
    - g. Maintenance, repair, reconstruction and realignment of roads and railroads within their rights-of-way shall be exempted from the wetlands and riparian guidelines upon demonstration of all the following:

- (1) The wetland within the right-of-way is a drainage ditch not part of a larger wetland outside of the right-of-way;
  - (2) The wetland is not critical habitat; and
  - (3) Proposed activities within the right-of-way would not adversely affect a wetland adjacent to the right-of-way.
3. Fish and wildlife habitat:
  - a. Structures such as bridges, culverts, and utility corridors shall be designed so as not to impede the passage of fish and wildlife.
  - b. New developments and uses shall not interfere with fish passage.
  - c. Filling of shallow-water fishery habitat shall be allowed only after an analysis shows that no other practicable sites exist. Filling shall only be considered for water-dependent uses, and mitigation shall be required.
  - d. New developments and uses shall occur during periods when fish and wildlife are least sensitive to activities. This would include, among others, nesting and brooding periods (from nest building to fledgling of young), and those periods specified in "Oregon Guidelines for Timing of In-Water Work to Protect Fish and Wildlife Resources" (Oregon Dept. of Fish and Wildlife 1986).
  - e. In areas of big game winter range, adequate thermal cover shall be maintained as determined by the Washington Department of Fish and Wildlife.
  - f. Forest practices shall maintain the following:
    - (1) Six live trees per acre, three of which shall be of the largest tree size available and three of which shall be of various sizes to provide replacements as snags and wildlife trees; and three dead trees per acre, of the largest tree size available; and three down trees per acre in the largest tree size available. All trees shall be unburned. In areas with mixed oak and conifer stands, at least one of the three dead trees per acre shall be an oak snag of the largest tree size and one additional live conifer per acre of 16-inch diameter at breast height (dbh) or greater, preferably with limbs down to the ground, shall be maintained.
    - (2) Snags and wildlife trees shall be maintained either as clumps or evenly distributed over the forest practice area.
    - (3) Down logs shall be relatively solid and no area greater than two acres in size and capable of supporting forested conditions shall be without a minimum of two down logs.
4. Bio-diversity.
  - a. New uses shall avoid disturbance to old-growth forests.
  - b. Forest practices shall maintain species composition at existing proportions in the activity area.
  - c. Forest practices in areas with existing oak species, shall maintain a minimum of 25 square feet basal area per acre of oak in areas with predominantly oak trees of 1-foot dbh or more, or maintain a minimum forty percent oak canopy cover per 40 acres in which 10 trees per acre must be of the largest tree size, in areas with predominantly oak trees less than 1-foot dbh. No area greater than 10 acres in size and supporting existing oak species shall be devoid of oak trees.
  - d. A mix in age and size of hardwoods shall be maintained to provide vertical diversity and replacement.
  - e. For revegetation purposes, only plants species native to the Columbia River Gorge shall be encouraged.
5. Soil productivity.
  - a. New developments and land uses shall control all soil movement within the area shown on the site plan.
  - b. The soil area disturbed by new development or land uses shall not exceed fifteen percent (15%) of the project area.
  - c. Within one year of project completion eighty percent (80%) of the project area with surface disturbance shall be established with effective native ground cover species or other soil stabilizing methods to prevent soil erosion until the area has eighty percent (80%) vegetative cover.
  - d. Forest practices shall maintain the following:
    - (1) Soil organic matter shall be provided at a minimum of 15 tons per acre and 25 tons per acre of dead and down woody material in the east and west side vegetation communities, respectively.
    - (2) Potential ground disturbance activities shall be designed to minimize disturbance to the soil organic horizon.

6. Air and water quality.
  - a. Streambank and shoreline stability shall be maintained or restored with natural revegetation.
  - b. All new developments shall be carried out to comply with state water quality requirements.
  - c. County, state, and federal regulations for air and water quality and for pesticide use shall be followed.
  - d. Existing levels of air visibility shall not be degraded.
7. The applicant shall develop a natural resource mitigation plan for all new developments or uses proposed within a buffer zone. The applicant's mitigation plan shall:
  - a. Include existing natural and cultural features.
  - b. Include proposed actions within and adjacent to the buffer zone.
  - c. Include mitigation measures as necessary to comply with the minimum natural resource protection guidelines and protect natural resources from adverse effects.
  - d. Be prepared by a natural resource specialist as defined.
  - e. Demonstrate mitigation measures that would offset the adverse effects of the proposed new use or developments and that would ensure protection, long-term viability, and function of the resource being protected by the buffer zone.
  - f. Be reviewed to ensure the proposed mitigation measures are adequate and comply with minimum natural resource protection guidelines. The mitigation plan shall be reviewed by the Forest Service in consultation with appropriate state or federal agencies, and reviewed and approved by the responsible official.

#### **40.240.580 GENERAL MANAGEMENT AREAS RECREATION RESOURCE REVIEW CRITERIA**

The following uses may be allowed within designated Recreation Intensity Classifications, as delineated on the Columbia River Gorge National Scenic Area Management Plan Recreation Intensity Classifications map, subject to compliance with Sections 40.240.580(D) and (E).

- A. Recreation Intensity Class 1 - Very Low Intensity
  1. Parking areas for a maximum of 10 cars for any allowed uses in Recreation Intensity Class 1.
  2. Trails for hiking, equestrian and mountain biking use.
  3. Pathways for pedestrian and bicycling use.
  4. Trailheads (with provisions for hitching rails and equestrian trailers at trailheads accommodating equestrian use).
  5. Scenic viewpoints and overlooks.
  6. Wildlife/botanical viewing and nature study areas.
  7. River access areas.
  8. Simple interpretive signs and/or displays, not to exceed a total of 50 square feet.
  9. Entry name signs not to exceed 10 square feet per sign.
  10. Boat docks, piers or wharves.
  11. Picnic areas.
  12. Rest-rooms/comfort facilities.
- B. Recreation Intensity Class 2 - Low Intensity
  1. All uses permitted in Recreation Intensity Class 1.
  2. Parking areas for a maximum of 25 cars, including spaces for campground units, to serve any allowed uses in Recreation Intensity Class 2.
  3. Simple interpretive signs and displays, not to exceed a total of 100 square feet.
  4. Entry name signs not to exceed 20 square feet per sign.
  5. Boat ramps, not to exceed two lanes.
  6. Campgrounds for 20 units or less, tent sites only.
- C. Recreation Intensity Class 3 - Moderate Intensity
  1. All uses permitted in Recreation Intensity Classes 1 and 2.
  2. Parking areas for a maximum of 75 cars, including spaces for campground units, for any allowed uses in Recreation Intensity Class 3.
  3. Interpretive signs, displays and/or facilities.

4. Visitor information and environmental education signs, displays or facilities.
  5. Entry name signs not to exceed 32 square feet per sign.
  6. Boat ramps, not to exceed three lanes.
  7. Concessions stands, pursuant to applicable policies in Chapter 4, Part I of the Management Plan
  8. Campgrounds for 50 individual units or less for tents and/or recreational vehicles, with a total density of no more than 10 units per acre (density to be measured based on total size of recreation facility and may include required buffer and setback areas). Class 3 campgrounds may also include one group campsite area, in addition to the individual campground units or parking area maximums allowed as described herein.
- D. Approval Criteria for Recreation Uses. All proposed recreation projects outside of Public Recreation zones shall comply with the applicable scenic, cultural, natural and recreation resources guidelines (Sections 40.240.490 through 40.240.590) and shall satisfy the following:
1. Cumulative effects of proposed recreation projects on landscape settings shall be based on the "compatible recreation use" guideline for the landscape setting in which the use is located.
  2. For proposed recreation projects in or adjacent to lands zoned Gorge Large-Scale or Small-Scale Agriculture, or Gorge Small Woodland:
    - a. The use would not seriously interfere with accepted forest or agricultural practices on surrounding lands devoted to forest or farm uses. Provision of on-site buffers may be used to partially or fully comply with this criterion, depending upon project design and/or site conditions.
    - b. A declaration has been signed by the project applicant or owner and recorded with county deeds and records specifying that the applicant or owner is aware that operators are entitled to carry on accepted forest or farm practices on lands zoned Gorge Large-Scale or Small-Scale Agriculture or Gorge Small Woodland.
  3. For proposed projects including facilities for outdoor fires for cooking or other purposes or proposed campgrounds: The project applicant shall demonstrate that a sufficient quantity of water necessary for fire suppression (as determined pursuant to applicable fire codes or the county fire marshal) is readily available to the proposed facility, either through connection to a community water system or on-site wells, storage tanks, sumps, ponds or similar storage devices. If connection to a community water system is proposed, the project applicant shall demonstrate that the water system has adequate capacity to meet the facility's emergency fire suppression needs without adversely affecting the remainder of the water system with respect to fire suppression capabilities. In addition, in order to provide access for fire-fighting equipment, access drives shall be constructed to a minimum of 12 feet in width and a maximum grade of twelve percent (12%). Access drives shall be maintained to a level that is passable to fire-fighting equipment.
  4. Trail or trailhead projects shall comply with applicable trails policies in the Management Plan.
  5. For proposed projects providing boating or windsurfing access to the Columbia River or its tributaries: compliance with applicable "River Access and Protection of Treaty Rights" objectives in the Management Plan.
  6. For proposed projects on public lands or proposed projects providing access to the Columbia River or its tributaries: compliance with guidelines for protection of tribal treaty rights in Part IV, Chapter 3, Indian Tribal Treaty Rights and Consultation in the Management Plan.
  7. For proposed projects which include interpretation of natural or cultural resources: A demonstration that the interpretive facilities will not adversely affect natural or cultural resources and that appropriate and necessary resource protection measures shall be employed.
- E. Facility Design Guidelines for All Recreation Projects.
1. Recreation facilities which are not resource-based in nature may be included at sites providing resource-based recreation uses consistent with the guidelines contained herein, as long as such facilities comprise no more than one-third of the total land area dedicated to recreation uses and/or facilities. Required landscaped buffers may be included in calculations of total land area dedicated to recreation uses and/or facilities.
  2. The facility design guidelines contained herein are intended to apply to individual recreation facilities. For the purposes of these guidelines, a recreation facility is considered a cluster or grouping of recreational developments or improvements located in relatively close proximity to one another. To be considered a separate facility from other developments or improvements within the same Recreation Intensity Class,

recreation developments or improvements must be separated by at least one-quarter mile of undeveloped land (excluding trails, pathways, or access roads).

3. Parking areas, access roads, and campsites shall be sited and designed to fit into the existing natural contours as much as possible, both to minimize ground-disturbing grading activities and utilize topography to screen parking areas and associated structures. Parking areas, access roads, and campsites shall be sited and set back sufficiently from bluffs so as to be visually subordinate as seen from Key Viewing Areas.
4. Existing vegetation, particularly mature trees, shall be maintained to the maximum extent practicable, and utilized to screen parking areas and campsites from Key Viewing Areas and satisfy requirements for perimeter and interior landscaped buffers.
5. Parking areas providing over 50 spaces shall be divided into discrete "islands" separated by unpaved, landscaped buffer areas.
6. Lineal frontage of parking areas and campsite loops to Scenic Travel Corridors shall be minimized to the greatest extent practicable.
7. Ingress/egress points shall be consolidated to the maximum extent practicable, providing for adequate emergency access pursuant to applicable fire and safety codes.
8. Signage shall be limited to that necessary to provide relevant recreation or facility information, interpretive information, vehicular and pedestrian direction, and for safety purposes.
9. Exterior lighting shall be shielded, designed and sited in a manner which prevents such lighting from projecting off-site or being highly visible from Key Viewing Areas.
10. Innovative designs and materials which reduce visual impacts (such as "turf blocks" instead of conventional asphalt paving) shall be encouraged through incentives such as additional allowable parking spaces and reduce required minimum interior or perimeter landscaped buffers. Upon determination that potential visual impacts have been substantially reduced by use of such designs and materials, the responsible official may allow either reductions in required minimum interior or perimeter landscape buffers up to fifty percent (50%) of what would otherwise be required, or additional parking spaces not to exceed ten percent (10%) of what would otherwise be permitted.
11. A majority of trees, shrubs and other plants in landscaped areas shall be species native or naturalized to the landscape setting in which they occur (landscape setting design guidelines specify lists of appropriate species).
12. All structures shall be designed such that height, exterior colors, reflectivity, mass and siting result in the structures blending with and not noticeably contrasting with their setting.
13. Landscape buffers around the perimeter of parking areas accommodating more than 10 vehicles shall be provided. Minimum required widths are 5 feet for 20 vehicles or less, 20 feet for 50 vehicles or less, 30 feet for 100 vehicles or less, and 40 feet for 250 vehicles or less.
14. Interior landscaped buffers breaking up continuous areas of parking shall be provided for any parking areas over 50 spaces in size. The minimum width of interior landscaped buffers between each parking lot of 50 spaces or less shall be 20 feet.
15. Within required perimeter and interior landscaped buffer areas, a minimum of one tree of at least 6 feet in height shall be planted for every 10 lineal feet as averaged for the entire perimeter width. A minimum of twenty-five percent (25%) of planted species in perimeter buffers shall be coniferous to provide screening during the winter. Project applicants are encouraged to place such trees in random groupings approximating natural conditions. In addition to the required trees, landscaping shall include appropriate shrubs, groundcover and other plant materials.
16. Minimum required perimeter landscape buffer widths for parking areas or campgrounds may be reduced by as much as fifty percent (50%), at the discretion of the responsible official, if existing vegetation stands and/or existing topography are utilized such that the development is not visible from any Key Viewing Area.
17. Grading or soil compaction within the drip line of existing mature trees shall be avoided to the maximum extent practicable, to reduce risk of root damage and associated tree mortality.
18. All parking areas and campsites shall be set back from Scenic Travel Corridors, and the Columbia River and its major tributaries at least 100 feet. Required perimeter landscaped buffers may be included when calculating such setbacks. Setbacks from rivers shall be measured from the ordinary high water mark. Setbacks from Scenic Travel Corridors shall be measured from the edge of road pavements.

19. Project applicants shall utilize measures and equipment necessary for the proper maintenance and survival of all vegetation utilized to meet the landscape guidelines contained herein, and shall be responsible for such maintenance and survival.
  20. All parking areas shall be set back from property boundaries by at least 50 feet. All campsites and associated facilities shall be set back from property boundaries by at least 100 feet.
- F. Emergency/disaster response activities shall comply with the following:
1. To the greatest extent practicable, emergency/disaster response actions shall not adversely affect recreational resources.
  2. Mitigation measures shall be implemented to mitigate any adverse effects on existing recreation resources caused by emergency/disaster response activities to the maximum extent practicable.

#### **40.240.590 SPECIAL MANAGEMENT AREA RECREATION RESOURCE REVIEW CRITERIA**

- A. The following shall apply to all new recreation developments and land uses in the Special Management Area:
1. New developments and land uses shall not displace existing recreational use.
  2. Only natural resource-based recreation shall be allowed.
  3. Recreation resources shall be protected from adverse effects by evaluating new developments and land uses as proposed in the site plan. An analysis of both on and off site cumulative effects shall be required.
  4. New pedestrian or equestrian trails shall not have motorized uses, except for emergency services.
  5. Mitigation measures shall be provided to preclude adverse effects on the recreation resource.
  6. The facility guidelines contained in this section are intended to apply to individual recreation facilities. For the purposes of these guidelines, a recreation facility is considered a cluster or grouping of recreational developments or improvements located in relatively close proximity to one another. Recreation developments or improvements to be considered a separate facility from other developments or improvements within the same Recreation Intensity Class must be separated by at least one-quarter mile of undeveloped land (excluding trails, pathways, or access roads).
  7. New development and reconstruction of scenic routes (see Part III, Chapter I of the Management Plan) shall include provisions for bicycle lanes.
- B. Special Management Areas Recreation Intensity Class Guidelines
1. Recreation Intensity Class 1 - Very Low Intensity Emphasis is to provide opportunities for semi-primitive recreation opportunities.
    - a. Permitted uses are those in which people participate in outdoor activities to realize experiences such as solitude, tension reduction, and nature appreciation.
    - b. The maximum site design capacity shall not exceed 35 people at one time on the site. The maximum design capacity for parking areas shall be 10 vehicles.
    - c. The following uses may be permitted:
      - (1) Trails and trailheads.
      - (2) Parking areas.
      - (3) Dispersed campsites accessible only by a trail.
      - (4) Viewpoints and overlooks.
      - (5) Picnic areas.
      - (6) Signs.
      - (7) Interpretive exhibits and displays.
      - (8) Rest-rooms.
  2. Recreation Intensity Class 2 - Low Intensity
    - a. Emphasis is to provide semi-primitive recreation opportunities.
    - b. Permitted uses are those that provide settings where people can participate in activities such as physical fitness, outdoor learning, relaxation, and escape from noise and crowds.
    - c. The maximum site design capacity shall not exceed 70 people at one time on the site. The maximum design capacity shall be 25 vehicles.
    - d. All uses permitted in Recreation Intensity Class 1 are permitted in Recreation Intensity Class 2. The following uses may also be permitted:
      - (1) Campground with vehicle access.

- (2) Boat anchorages designed for no more than 10 boats at one time.
- (3) Swimming areas.